



THE VICTORIAN BAR INCORPORATED

**CONSOLIDATED GUIDE TO  
VICTORIAN AND  
COMMONWEALTH COURT AND  
TRIBUNAL RESPONSES TO  
COVID-19**

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## FOREWORD

In the past three weeks, we've witnessed a transformation in how justice is being administered in our courts and tribunals – a transformation, more universal and far-reaching than any other in our professional lifetimes, that has necessitated a radical overhaul of the protocols and procedures on which courts have traditionally relied and on which the Bar has built its expertise.

Over these three, extraordinary weeks, the team at the Victorian Bar has been collating and distributing daily updates about the new and evolving technologies and procedures the Victorian and Commonwealth Courts and Tribunals have introduced to facilitate the continued administration of justice. Our justice system has been wrenched into a new way of working in less than a month, and I've been impressed, as a daily witness to these changes, at the determination of our Chief Justices and others in the judiciary and administration of the courts and tribunals to make change, continue to dispense justice, and respond to community concerns. They have, in adapting their ways of working under the most significant of pressure, been particularly cognisant of the impact of the COVID-19 measures on those awaiting and those seeking justice, as well those whose professional livelihoods depend on the continued functioning of the justice system.

I've heard some tremendous stories of adaptation to keep the wheels of justice turning – appeals in the Court of Appeal have been heard on the allocated day, with the judges present in the Supreme Court of Victoria and all parties logging in remotely; thirty-four courts in the Federal Court of Australia to date have been fitted out to conduct remote, Auscript-enabled, proceedings, and this number will continue to rise; new Magistrates' Court and Children's Court protocols ensure we continue to protect the youngest and most vulnerable members of society when they interact with the judicial system.

This guide to how courts are responding to the COVID-19 situation has been put together by two talented young barristers – Kieran Hickie and Hadi Mazloum – sourced from the Victorian Bar member daily updates and information provided on the websites of and by the various courts and tribunals. I'd like to thank all of those across the court system who have worked so hard to keep the profession up to date and to find solutions to problems that we never imagined we would face.

It's impossible to publish a comprehensive guide that is completely accurate at one point in time, as the sands continue to shift across the judicial system. We will continue to update the online version of this report. But we at the Victorian Bar did think it was time to pause, take stock, acknowledge the depth of the transformation that has occurred, and reflect on how this will change the administration of justice in the future.

I hope that the guide provides readers with the opportunity to do that.



Wendy Harris QC

President

The Victorian Bar

8 April 2020

## INTRODUCTION

The Victorian Bar aims to assist its members to understand the specific changes to court proceedings in the Commonwealth and Victorian Courts and Tribunals during the COVID-19 pandemic.

This document has been developed as a resource for members and practitioners who practice in Commonwealth and Victorian Courts and Tribunals for current and up-to-date information about practice changes.

Members and practitioners are referred to the following additional information:

- Members of the Victorian Bar can access the Victorian Bar's dedicated [webpage](#) in relation to COVID-19.
- Government information in relation to COVID-19 is available on the [Commonwealth Government](#) and the [Victorian Government](#) websites.
- The Law Institute of Victoria has a [website 'hub'](#) for the legal profession in relation to COVID-19, and has published a [guide](#) on witnessing documents electronically.

Links to websites of each of the Courts and Tribunals that have provided the Victorian Bar with the information in this guide are contained in the sections in which they appear. The Victorian Bar acknowledges and thanks all of the members of the judiciary and court staff who have provided regular and timely information to its members during this unprecedented time.

Information in this document is current to 22 October 2020. It is produced for information purposes only. The Victorian Bar does not guarantee, and accepts no liability whatsoever arising from, or connected to, the accuracy, reliability, currency or completeness of any material contained in this guide or on any linked site.

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## NSW COURTS

### VLSB+C advice on NSW matters

The VLSB+C advises that legal practitioners who are currently residing in Victoria and have matters before a NSW Local or District Court are encouraged to contact the court to seek alternate appearance arrangements or for consideration that the matter be adjourned. Where in-person attendance is required by the Court, it is suggested that an agent in NSW be arranged to appear on the practitioner's behalf whilst border restrictions are in place.

## VICTORIAN COURTS AND TRIBUNALS – COVID-19 UPDATES

On 6 August 2020, the Honourable Anne Ferguson, Chief Justice of the Supreme Court of Victoria, issued a joint statement on behalf of the Victorian Courts and VCAT advising that further changes to court operations have been made in response to Stage 4 Restrictions. The Courts and Tribunal acknowledge the challenges associated with working from home that legal representatives now face and the jurisdictions will be mindful of this. The statement provides a summary of how each Court and Tribunal is operating during Stage 4 Restrictions and is available to read [here](#).

### Victorian Courts and VCAT COVIDSafe Plan

In response to the introduction of Stage 4 Restrictions, the courts and VCAT are limiting physical appearances to urgent or priority matters determined by the relevant head of jurisdiction.

Court Services Victoria (CSV) has implemented a COVIDSafe Plan that demonstrates the measures being taken to minimise the introduction of COVID-19 into Victorian courts and VCAT. A summary of this COVIDSafe Plan is available on the [CSV website](#).

The COVID Safe Plan includes:

- physical distancing and hygiene measures
- cleaning and sanitising of workplaces
- use and disposal of face masks
- record keeping of all people entering court and tribunal sites
- requirements to refuse entry to those who have COVID-19, have been tested and are awaiting results, and those with flu like symptoms
- requirements for employees to report if they have been tested, have symptoms or have been diagnosed with COVID-19, and to stay away from work
- requirements and processes for CSV to notify authorities, including WorkSafe, of a suspected case or confirmed diagnosis and if the person has attended the workplace within the infection period
- security entry screening measures to reduce contact with Court Security Officer, and
- strengthening the efforts of the Courts' Incident Management and Emergency Management teams.

### Attendance at court buildings

In line with the Workplace Directions (No. 2), current COVID-19 health and safety requirements and the Notification Protocol, CSV has implemented a record keeping system of all visitors who attend CSV sites in Stage 4 areas (metropolitan Melbourne) for longer than 15 minutes.

When attending court and VCAT buildings, members must adhere to the following COVID-19 measures:

- record their attendance via their smartphone using a QR code system. They will be required to enter full name, contact number and answer a general health question.



- adhere to social distancing requirements of 1.5 meters
- adhere to the requirement to wear a face covering unless an exemption applies, and
- comply with the signage in courtrooms, meeting rooms, public waiting areas, lifts, toilets and office spaces indicating the number of people who can use a space and what furniture can be used.

These measures will be regularly reviewed and updated in line with the latest health advice from the government.

## Supreme Court of Victoria

Registry Services – Registry, Probate Office, Court of Appeal – Application Books and Authorities and Inspection of Subpoenaed Material to be done via appointment.

All 'in person' applications for admission indefinitely adjourned. Admissions to occur 'on the papers'.

Crimes Mental Impairment Applications – where appropriate and consented to by parties will be decided on the papers. The presiding judge will set timeline for written submission via email. Where necessary hearing submissions or oral evidence will likely be done via AV link.

Persons affected by COVID-19 who are required to attend court are to notify the Prothonotary.

Coronavirus information for the Supreme Court of Victoria can be found [here](#).

On 15 April, the Court published further guidance for the profession around civil proceedings affected by COVID-19, including the Court of Appeal, Commercial Court, Common Law Division, Costs Court and Probate. The guide is available [here](#).

On 14 April 2020, the Court launched a [dedicated webpage](#) which contains information for practitioners about virtual hearings, including a fact sheet, WebEX and Zoom user guides, tips and tracks and technical FAQ's.

The Supreme Court has approved four images of courtrooms that can be used as backdrops during remote court appearances. To access these backgrounds, scroll down to 'Resources to help you work electronically and remote' in the member health and wellbeing page of our website [here](#).

The Supreme Court of Victoria and County Court have published a joint statement today, informing us that they will recommence jury trials, with special arrangements, from 20 July 2020. The announcement, which includes further information about how trials will be conducted in a COVID-safe environment is [here](#).

On Thursday 11 June 2020, the Supreme and County Courts of Victoria hosted a free online webinar entitled, 'The dos and don'ts of virtual hearings'. The webinar was recorded and is available to view [here](#).

On Wednesday 22 July 2020, the Supreme Court of Victoria made an announcement stating that anyone in Victoria's court or tribunal buildings in metropolitan Melbourne and Mitchell Shire must wear a face covering unless an exemption applies. The three exemptions are:

1. Where the nature of a person's work means that clear enunciation or visibility of the mouth is essential. Examples include judicial officers, court staff, interpreters and those formally addressing the court, such as barristers and police officers. In these circumstances you may choose to continue wearing a face covering so long as you can be clearly heard and understood and the court will endeavour to make reasonable adjustments to allow for this. Authorised officers may request face coverings be temporarily removed where it is necessary to confirm a person's identity for security purposes.
2. When it is required or authorised by law. Examples include when the presiding judicial officer directs a witness to remove a face covering when giving evidence to facilitate the fair conduct of court proceedings,

or when it is a legal requirement that someone's face be seen in court such as during the jury empanelment process.

3. The person has a physical or mental health illness, condition or disability which makes face coverings unsuitable. This is particularly relevant for people who rely on visibility of the mouth for communication, such as the deaf and hard of hearing and their interpreters.

It is expected that now that there is a general requirement to wear face coverings in public, most people attending court will have their own, and will be wearing a face covering when arriving at court. Some disposable face coverings will continue to be available to court and tribunal users attending for hearings, or the registry, in person. These can be obtained at entrance points before security screening. Guidance on how to properly fit and dispose face coverings will be provided and displayed.

The Court's announcement and an explanation of the exemptions is available to read [here](#).

### **Applications for admissions**

On 19 August 2020, the Supreme Court indefinitely adjourned all in-person applications for admission to the Australian legal profession in light of the COVID-19 pandemic. A process has been developed to allow admissions to occur 'on the papers'. More information is available to read [here](#).

## **CRIMINAL LAW DIVISION**

The Supreme Court's Criminal Division today published the Trial by Judge Alone COVID-19 Emergency Protocol, which is available [here](#).

Fast tracking of homicide matters to the Supreme Court – with consent from the accused, parts of the committal process may progress straight to the Supreme Court to assist the Magistrates' and Children's Courts.

Initial directions hearings for fast-tracked homicide matters in the Supreme Court will be dealt with on the papers or via AV link.

New jury trials suspended from 16 March until further notice. Existing trials to be completed.

Non-jury matters in the Criminal Division will continue where parties are available. AV links will be used where required and available. Where in-person hearings are required, listing times may be staggered to allow for social distancing.

### **Supreme Court and County Court of Victoria – Joint Announcement**

On Wednesday 21 October, the Courts announced that a limited number of Melbourne-based criminal jury trials are planned to resume in a measured way from 16 November 2020. The Courts will continue to monitor developments between now and 16 November and adjust the timeframe if that becomes necessary. A range of safety measures will be in place – these are outlined in the Courts' joint statement [here](#) and on the Supreme Court website [here](#). The Courts have also produced Q&As about the resumption of criminal jury trials, which are available [here](#) and on the Supreme Court website [here](#).

## **COMMON LAW DIVISION**

Jury trials will now proceed before a judge alone, will be heard via telephone or AV link and parties will be asked to lodge court books electronically.

Practice Court matters will be dealt with on the papers. Judgments will be delivered without the parties' attendance.

Civil Circuit, Institutional Liability, Major Torts, Personal Injuries and Professional Liability Lists to be dealt with on the papers, unless otherwise specified.



Matters that were listed as jury trials will now proceed as judge-alone, unless a judge adjourns the proceedings. Trials will be conducted using telephone or AV links for parties, counsel and witnesses unless a judge directs otherwise. Where in-person hearings are required, strict time limits will be imposed, and listing times staggered to allow for social distancing.

On 15 April, the Court published further guidance for the profession around civil proceedings affected by COVID-19, including the Common Law Division, which is available [here](#).

## COMMERCIAL COURT

Commercial Court directions hearings and interlocutory applications will only be heard in-person in exceptional circumstances. If consent orders are not possible, parties are to outline areas of disagreement and the matter will be dealt with on the papers, by AV link or telephone.

From 25 March 2020 all company winding-up applications will be heard by telephone.

Commercial Court trials will be conducted electronically with witnesses giving evidence remotely. Short trials will be prioritised. Judgments will be delivered without the parties' attendance.

On 15 April, the Court published further guidance for the profession around civil proceedings affected by COVID-19, including the Commercial Court, which is available [here](#).

## COURT OF APPEAL

All Court of Appeal hearings are to be conducted by AV link. Judges and court staff will be present in court, but parties will appear remotely. With agreement, the Court of Appeal will determine matters on the papers.

Court of Appeal judgments to be delivered without the parties' attendance.

On 15 April, the Court published further guidance for the profession around civil proceedings affected by COVID-19, including the Court of Appeal, which is available [here](#).

## COSTS COURT

Filing summonses for taxation to be done electronically. 5 May 2020 callovers to be conducted by telephone, the Court cannot confirm a time and asks parties to be available on the date.

Mediations and Taxations to be conducted via phone or Zoom.

Preliminary hearings or reviews to be conducted on the papers (preferred) or via phone or Zoom.

On 15 April, the Court published further guidance for the profession around civil proceedings affected by COVID-19, including the Costs Court, which is available [here](#).

## PROBATE OFFICE

From Monday 30 March 2020, an affidavit of searches is no longer required for applications for probate and administration. The documents required to accompany those applications must be sent via post.

On 15 April, the Court published further guidance for the profession around civil proceedings affected by COVID-19, including Probate, which is available [here](#).

The Court is conscious that original wills may be stored at solicitors' offices and are therefore inaccessible due to Stage 4 Restrictions that require most legal practitioners to work from home. In order to facilitate the continuing ability of Victorians to administer deceased estates during these times without the need for additional movement, temporary changes have been made with respect of applications for probate or administration. In circumstances where an original will is stored at a legal practitioners' office, an application may be submitted for probate or administration of the will as contained in a copy. More information about this is available [here](#).

## County Court of Victoria

From 31 March 2020 face-to-face services will be limited and will only be available in urgent circumstances after an initial assessment by telephone.

Documents must be filed electronically using the Court's e-filing systems. The Court will temporarily allow electronic signatures.

Appointments must be made for witnessing affidavits, certifying documents and inspecting subpoenaed material and must only be made for urgent matters. Registry will assess urgency over the phone.

Persons affected by COVID-19 who are required to attend court must notify the Registry.

Social distancing measures have been introduced for matters heard in person, limiting the number of people present in the courtroom and staggering appearances.

On 12 May 2020, the Victorian Government announced the reappointment of Judge Amanda Chambers as President of the Children's Court of Victoria for a further six months to assist the Court deal with coronavirus, before she returns to the County Court. The announcement is available [here](#).

The Supreme Court of Victoria and County Court have published a joint statement today, informing us that they will recommence jury trials, with special arrangements, from 20 July 2020. The announcement, which includes further information about how trials will be conducted in a COVID-safe environment is [here](#).

Coronavirus information for the County Court of Victoria can be found [here](#).

On Thursday 11 June 2020, the Supreme and County Courts of Victoria hosted a free online webinar entitled, 'The dos and don'ts of virtual hearings'. The webinar was recorded and is available to view [here](#).

On Wednesday 22 July 2020, the Supreme Court of Victoria made an announcement stating that anyone in Victoria's court or tribunal buildings in metropolitan Melbourne and Mitchell Shire must wear a face covering unless an exemption applies. The Court's announcement and an explanation of the exemptions is available to read [here](#).

### CRIMINAL DIVISION

New jury trials are suspended from 16 March 2020 until further notice. Existing trials to be completed at the direction of the presiding judge.

Legal practitioners are not required to robe in the Criminal Division.

The Criminal Division will prioritise:

- bail applications, revocations and variations
- warrant executions
- urgent custody-related pleas (for example where the offender is approaching 21 years of age but may be suitable for a youth justice centre order)



- urgent sentence appeals (for example where the accused is in custody and would otherwise serve more time than their expected sentence)
- urgent Supervision Order review hearings under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*, and
- matters that are part-heard or ongoing or otherwise require completion, or where the complexity or history demands that it be heard.

Trials that had previously been vacated and adjourned to a special directions hearing on 1 April 2020 will be adjourned to a date in June 2020 and managed administratively.

Trial dates are unlikely to be allocated before the first quarter of 2021.

From Monday 23 March 2020, the Court will suspend the hearing of appeals against convictions imposed in the Magistrates' Court and will manage the future listing of these appeals administratively.

Insofar as the regional work in the criminal jurisdiction is concerned, the County Court will work with parties who have matters listed at circuit locations in order to conduct work remotely (where possible) utilising technology including telephone conferences, and audio-visual solutions.

The *Trial by Judge Alone COVID-19 Emergency Protocol* is available [here](#). This document outlines the process for applying for a trial by judge alone. Applications must use Form 420 Applications for trial by judge alone.

On 11 August 2020, The County Court has published a notice to practitioners outlining the steps for delivering Justice Specific Stage 4 Directions in the Criminal Division. In this memo, His Honour Chief Judge Peter Kidd sets out the prioritisation of matters and accessing the Court. This change to operations is in response to coronavirus (COVID-19). You can read the Memorandum [here](#).

On 31 August 2020, the Court announced that it has decided to vacate Melbourne criminal jury trials listed for Term 4 (due to commence 5 October) as part of changes to operations due to COVID-19, with a limited exception. The Court's full statement is available to read [here](#).

On 31 August 2020, the Court launched a new online tool for civil subpoena submissions, objections and inspections, eCase, was released this week. The *eCase: electronic subpoenas practice note* and *eCase electronic subpoenas: notice to addressees* can be accessed [here](#). This practice note (PNCLD 9–2020) deals with the management of subpoenas, including use of the subpoena calculator, inspection of documents, objections hearings and confidential communications and is available to read [here](#).

On 25 September, the Court has issued the *Emergency Case Management Model Protocol Phase Five and Criminal Division Hearings – WebEx Information Guide (version 2)* with a new section on how to change your virtual background. These documents are available on the Court's website [here](#).

### **Supreme Court and County Court of Victoria – Joint Announcement**

On Wednesday 21 October, the Courts announced that a limited number of Melbourne-based criminal jury trials are planned to resume in a measured way from 16 November 2020. The Courts will continue to monitor developments between now and 16 November and adjust the timeframe if that becomes necessary. A range of safety measures will be in place – these are outlined in the Courts' joint statement [here](#) and on the Supreme Court website [here](#). The Courts have also produced Q&As about the resumption of criminal jury trials, which are available [here](#) and on the Supreme Court website [here](#).

## COMMON LAW DIVISION

On 15 April, the Court published a guide to assist parties understand the current arrangements and expectations of the Common Law Division. The guide is available [here](#).

On 15 April 2020, Her Honour Judge Andrea Tsalamandris and His Honour Judge Edward Woodward suggested that counsel use [this image](#) as a virtual background when appearing remotely using Zoom in the Common Law and Commercial Divisions.

The Common Law Division will prioritise:

- extension of time applications
- urgent interlocutory applications including extension of time applications for service of a writ, taking evidence *de bene esse* and applications for a freezing order, and
- some urgent damages trials (where there are compelling circumstances such as when the health of a party to litigation is deteriorating).

Serious injury applications capable of being conducted remotely and which have an estimated hearing length of two days or less will be heard.

It may be appropriate that civil jury trials be heard as causes.

Appropriate Common Law cases in the circuit list will be conducted by videoconference where possible.

## COMMERCIAL DIVISION

Applications and directions hearings listed before the Judicial Registrars, matters listed to be heard by the Duty Judge, and matters listed to be heard by the Judge in Charge of the Building Cases List will continue to be determined primarily on the papers, supplemented by hearings by videoconference where necessary.

On 1 May, the Court published its *Commercial Division response to COVID-19*, which supersedes its previous response dated 16 April 2020 and is available [here](#).

On 15 April 2020, Her Honour Judge Andrea Tsalamandris and His Honour Judge Edward Woodward suggested that counsel use [this image](#) as a virtual background when appearing remotely using Zoom in the Common Law and Commercial Divisions.

The Court has issued two information sheets in relation to the use of Zoom to conduct Judicial Resolution Conferences (JRC) and non-binding neutral evaluations which can be downloaded [here](#). There will be no hearings in person.

Other than in exceptional circumstances, all Commercial Division hearings (including trials) in the Court will be conducted remotely until the coronavirus restrictions are lifted.

Parties are encouraged to cooperate and submit written directions by email to [commercial.registry@courts.vic.gov.au](mailto:commercial.registry@courts.vic.gov.au), copied to all parties.

The County Court of Victoria has published an updated Commercial Division response to COVID-19, available [here](#). This document supersedes the information in the Commercial Division response to COVID-19 published on 1 May 2020.

## KOORI COURT

The County Court Koori Court has been suspended until further notice.

## Magistrates' Court of Victoria

Magistrates' Court venues remain open, however a range of non-urgent matters have been adjourned.

Persons affected by COVID-19 who are required to attend court should phone the court before entering the building.

Coronavirus information for the Magistrates' Court of Victoria can be found [here](#). The Court has also published [FAQs](#) for court users, lawyers and police relating to its response to COVID-19.

On Wednesday 22 July 2020, the Supreme Court of Victoria made an announcement stating that anyone in Victoria's court or tribunal buildings in metropolitan Melbourne and Mitchell Shire must wear a face covering unless an exemption applies. The Court's announcement and an explanation of the exemptions is available to read [here](#).

## CRIMINAL PROCEEDINGS

The latest Practice Directions for Criminal Proceedings issued by the Magistrates' Court are as follows:

- No. 8 relates to summary pleas on the papers and is available [here](#). In summary:
  - From 7 May 2020, pleas for summary offences will be heard on the papers.
  - Certain documents, listed in the practice direction, must be filed for the registry if practitioners wish for the Court to list the matter for plea.
  - Parties will be advised of the date for listing of the plea at least 7 days prior to the listed date.
  - Arrangements must be made to ensure the Accused is contactable on the listed date.
  - The matter will be considered on the papers on the listed date and if determined appropriate, the matter will proceed on the papers.
  - Where the sentence imposed is non-custodial, the Court will send the parties a notice of order made by email.
  - Where the imposition of a custodial sentence or CCO is being considered, the matter will be adjourned part heard to a date on which practitioners and the accused must attend and can make further submissions.
  - Where an assessment for a CCO is required, the Court will communicate with the Accused and/or the Accused's legal representative as soon as practicable about how and when that assessment is to take place. The Accused must attend that assessment, including via telephone if required.
  - In the event the court orders an adjourned undertaking, the prescribed forms requiring signature will be sent to the Accused's legal representative who must arrange their signing and return to the Court.
- No. 9 relates to diversion hearings on the papers and is available [here](#). In summary:
  - From 7 May 2020, Diversion hearings will be heard on the papers.
  - Certain documents, listed in the practice direction, must be filed for the registry if practitioners wish for the Court to list a matter for Diversion.
  - Parties will be advised of the date for listing of the Diversion at least 7 days prior to the listed date.
  - Arrangements must be made to ensure the Accused is contactable on the listed date.
  - The Diversion will be heard on the papers on the listed date and parties will be emailed a notice of order made.
  - Where the Diversion is granted, the Diversion plan will be provided to the Accused or their legal representative for acknowledgement and acceptance via email.
  - Where the Diversion is refused, the matter will be listed for mention and the parties will be advised of the date by way of hearing notice.
- No. 10 relates to unopposed bail variations on the papers and is available [here](#). In summary:



- From 7 May 2020, unopposed bail variations will be heard on the papers.
- Certain documents, listed in the practice direction, must be filed for the registry if practitioners wish for the Court to list a matter for an unopposed application to vary bail.
- Parties will be advised of the date for listing of the application and the application will be heard and determined on the papers on that date.
- The parties will be sent a notice of order made via email.
- Where the application for variation is granted, the Accused and (where applicable) the surety are required to attend at the registry to sign and enter into the new undertaking of bail. The variation will have no effect until the undertaking is entered.
- No. 11 relates to sentence indication hearings on the papers and is available [here](#). In summary:
  - From 7 May 2020, sentence indications will be heard on the papers, where deemed appropriate and if both the Prosecution and Defence agree.
  - Certain documents, listed in the practice direction, must be filed for the registry if practitioners wish for the Court to list a matter for sentence indication.
  - Parties will be advised of the date for listing of the plea at least 7 days prior to the listed date to enable arrangements to be made to ensure the Accused is available to give instructions on that date.
  - The matter will be considered on the papers on the listed date and if determined appropriate, provide a sentence indication.
  - The Court will notify the Prosecution and Defence via email of the sentence indication or refusal to give a sentence indication no later than 11:30am and it must be accepted by email no later than 2:30pm on the day of the sentence indication hearing.
  - If the sentence indication is accepted and no assessment is required, the Magistrate will proceed to sentence, and parties will be emailed a notice of order made.
  - If the sentence indication is accepted and includes either a term of imprisonment or CCO, the matter will be adjourned to a date in open court and practitioners and the Accused must attend on that date and may make further submissions if required.
  - Where an assessment for a CCO is required, the Court will communicate with the Accused and/or the Accused's legal representative as soon as practicable about how and when that assessment is to take place. The Accused must attend that assessment, including via telephone if required.
  - Where an accepted sentence indication includes an adjourned undertaking, the prescribed forms requiring signature will be sent to the Accused's legal representative who must arrange their signing and return to the Court.
  - Where the sentence indication is not accepted, the Court will adjourn the matter to the next contest mention date where appropriate or to the next listed contest date if the matter is already listed for contest. Parties will be advised of the new hearing date via hearing notice.
- No 12 relates to the civil jurisdiction (except Workcover proceedings, family law proceedings, victims of crime assistance tribunal proceedings, and family violence or personal safety intervention order proceedings) and is available [here](#). In summary, the practice note sets out arrangements for:
  - The commencement of proceedings and the payment of fees;
  - Applications and directions hearings (including the filing of submissions).
  - Alternative dispute resolution (pre-hearing conferences for claims of \$10,000 or less, early neutral evaluation for claims between \$10,000 and \$40,000, and mediation for claims greater than \$40,000), and the procedure which applies to ADR.
  - Contested hearings (including the contents of Court books for such hearings).
  - Subpoenaed documents (including inspection).
  - Attendance at Court.
- No 13 relates to the Workcover jurisdiction of the Court and is available [here](#). In summary, the practice note sets out arrangements for:
  - The commencement of proceedings and the payment of fees.
  - The filing of documents.
  - Subpoenaed documents (including inspection).
  - The procedure for directions hearings, mentions, objection hearings and applications.
  - Contested hearings (including the procedure applicable to contested hearings until 15 May 2020, and from 18 May 2020).
  - Early neutral evaluation hearings (and the procedure applicable to these hearings).



- The procedure applicable to regional circuit courts.
- On 4 August 2020, Her Honour Judge Lisa Hannan, Chief Magistrate, has issued the following Practice Directions:
  - Order pursuant to Section 33D *Open Courts Act 2013* [here](#)
  - Practice Direction 15 of 2020 – Sitting Times of the Magistrates’ Court of Victoria [here](#)
  - Practice Direction 16 of 2020 – Remand Hearings and Bail Applications after 2:00pm [here](#)
  - Practice Direction 17 of 2020 – EFAS Special Directions and Mentions [here](#)
  - Practice Direction 18 of 2020 – First Remand Hearings [here](#)
  - Practice Direction 19 of 2020 – Civil Jurisdictions [here](#), and
  - Practice Direction 20 of 2020 – State of Disaster Declaration [here](#).
- On 1 October, the Court issued Practice Direction 21 of 2020, which is available [here](#).
- On 5 October, Practice Direction 22 of 2020 was issued and is [here](#).
- On 7 October, the Court issued two new Practice Directions:
  - Practice Direction 23 of 2020 – The purpose of Practice Direction 23 is to set out the process required to give effect to Part 8.2A of the *Criminal Procedure Act 2009* (Vic) as it relates to ground rules hearings where no intermediary has been appointed. The Court has also developed the [Ground rules hearings – informant fact sheet](#) and [Ground rules hearings – informant questionnaire](#) for completion prior to ground rules hearings. Practice Direction 23 is available [here](#).
  - Practice Direction 24 of 2020 – The purpose of Practice Direction 24 is to revoke Practice Direction 20 of 2020. [Practice Direction 20](#) is now replaced by [Practice Direction 21 of 2020](#) (for regional Victoria) and [Practice Direction 22 of 2020](#) (for metropolitan Melbourne). The majority of criminal cases continue to be adjourned pursuant to [Practice Direction 5 of 2020](#), which remains in place until 9 November for metropolitan Melbourne. Practice Direction 24 is available [here](#).

### **Bail and summons matters**

All initiations must proceed via the Courts Electronic Management Diary (EMD) at the proper venue unless otherwise directed by the Court.

All criminal proceedings (except Filing Hearings, Committal Mentions and Committal Hearings) where the accused is on summons or bail will be adjourned and parties will be advised of the new date by way of hearing notice. No attendance by the accused is required. Bail will be extended in absence to the new hearing date. The Court will adjourn to a date fixed for later in the year and will no longer use the nominal date of 15 June. Parties should expect to receive a new date by way of hearing notice within 6 weeks of the current listing date. Parties must attend on the date specified in the hearing notice unless otherwise notified by the Court. Where such notice is not received it is the responsibility of the parties to obtain the date via the Electronic Appearance Filing Service (EFAS) on the MCV website and if the date cannot be obtained via EFAS parties may call the relevant court to obtain the adjourned date.

For those matters currently listed for special mention on the nominal date of 15 June, parties should expect to receive a new date by way of hearing notice within 6 weeks of the current date. Where such notice is not received it is the responsibility of the parties to obtain the date via EFAS on the MCV website and if the date cannot be obtained via EFAS Parties may call the relevant court to obtain the new hearing date. No appearance is required on 15 June and Bail will be extended in absence to the new hearing date.



Where matters are adjourned to a new hearing date but require urgent prioritisation, applications for abridgement of the new hearing date may be made in writing and the application will be considered on the papers and accommodated where possible. Parties will be notified of the new date if the matter is abridged.

### **Custody matters**

Where the accused is in custody, the court will continue to hear the following criminal proceedings via audio visual link:

- applications for bail
- applications to vary bail
- applications to revoke bail
- pleas of guilty in the summary stream, and
- contest mentions.

Summary contests where the accused is in custody will be adjourned and parties will be advised of the new date by way of hearing notice. Parties should expect to receive such hearing notice within 6 weeks of the current listing date. Where such notice is not received it is the responsibility of the parties to obtain the date via EFAS on our website and if the date cannot be obtained via EFAS may call the relevant court to obtain the new hearing date.

### **Committal Stream Matters (Custody Bail and Summons)**

#### *Bail Applications*

Where the accused is in custody, the Court will continue to hear the following criminal proceedings via audio visual link:

- applications for Bail
- applications to vary Bail, and
- applications to revoke Bail.

#### *Contested Committals – Currently Listed Matters*

Contested Committal Hearings currently listed will be abridged to the Monday of the week in which they are listed and then adjourned to a new hearing date. Parties will be advised of the new date by way of hearing notice. Parties should expect to receive such hearing notice within 6 weeks of the current listing date. Where such notice is not received it is the responsibility of the parties to obtain the date via EFAS on the MCV website and if the date cannot be obtained via EFAS may call the relevant court to obtain the new hearing date.

Contested Committals which have been adjourned for special mention on 15 April, 22 April and 29 April will now be listed for hearing later in the year. No appearance is required on these dates. Parties will be advised of the new date by way of hearing notice. Parties should expect to receive such hearing notice within 6 weeks of the current listing date. Where such notice is not received it is the responsibility of the parties to obtain the date via EFAS on the MCV website and if the date cannot be obtained via EFAS may call the relevant court to obtain the hearing date.

For Contested Committals adjourned as per above, no attendance by the accused is required. Bail will be extended in absence to the new hearing date.

#### *Filing Hearings*

Filing Hearings will proceed in accordance with current practice. However, where an accused is on summons or bail, their attendance is not required provided their legal representative attends with instructions.

#### *Committal Mentions and Case Conferences*



Committal mentions and Committal case conferences will continue to be heard. Where an accused is on summons or bail, their attendance will not be required provided their legal representative attends with instructions.

If parties seek to adjourn a Committal mention or Committal case conference for the purpose of continuing negotiations, they must file a Form 32 no later than 2 business days prior to the listed date indicating the reasons for the adjournment application, including the period of adjournment sought and confirming consent to an adjournment. No appearance by practitioners is required and the adjournment will be determined on the papers. Practitioners will be notified of the next date by way of hearing notice. Parties should expect to receive such hearing notice. Where such notice is not received it is the responsibility of the parties to obtain the date via EFAS on our website and if the date cannot be obtained via EFAS may call the relevant court to obtain the adjourned date.

If a Committal mention, Committal case conference or Special mention has resolved to a straight hand up brief, the accused and their legal representative must attend that hearing.

At a Committal mention where the Magistrate grants leave to cross-examine witnesses at a Committal hearing, the matter will be allocated a hearing date. The parties are to complete a revised Committal checklist in Form 34A [rule 62]. An online version of this form is now available on the court's website. The completed Form 34A is to be forwarded to the court within 7 days of the Committal mention hearing.

If at Committal mention or Committal case conference the matter is resolved and an application for summary jurisdiction is to be made, the court will provide a date for such application. If the application is granted, it is the expectation of the court that the plea will follow that day. If the application is refused, it is expected that the matter will proceed as a straight hand up brief that day.

## **VOCAT**

VOCAT will continue to process applications.

For urgent requests, parties are instructed to contact local court VOCAT registrar, with a preference for contact by email.

All directions hearings will be held by telephone and recorded by the Tribunal. Legal practitioners should notify VOCAT of the most appropriate phone number to call.

All listed hearings have been adjourned to a 'nominal' date of 15 June 2020. Parties will not be required to attend the Tribunal on this date. They will be notified prior to 15 June 2020 of the further adjourned hearing date.

Authorised psychological counselling and urgent report assessments to be undertaken by phone or remotely.

VOCAT will continue to consider applications for interim awards of financial assistance, variations and payments, as they are lodged. Such applications are preferred by email where possible.

Coronavirus information for VOCAT can be found [here](#).

## **FAMILY LAW & RELATED PROCEEDINGS**

### **Intervention Orders**

The latest Practice Direction for Family Law and Related Proceedings – Intervention Orders for the Magistrates' Court, commencing 9 April 2020 can be found [here](#).

All current relevant practice directions and listing protocols are suspended.

New listing time frames will apply in relation to the following proceedings:

- Intervention order applications under the *Family Violence Protection Act 2008* (FV IVOs). This includes new applications and applications for variation, extension and revocation.



- Intervention order applications under the *Personal Safety Intervention Orders Act 2010* (PS IVOs). This includes new applications and applications for variation, extension and revocation.
- Applications under the *Family Law Act 1975*.
- Ancillary and other applications related to the proceedings referred to above e.g. applications to be deemed a non-prohibited person under the *Firearms Act 1996*.

The following listing time frames will apply:

- First listing dates for urgent applications, particularly in high risk circumstances, will be listed on a case by case basis. Direct contact should be made with the Court to request the listing of an urgent application.
- Otherwise, first listing dates for IVO applications initiated by way of:
  - Family Violence Safety Notice – not later than 14 days after service on the respondent (section 31 FVPA).
  - Victoria Police FV and PS IVO applications - will be allocated using the electronic mention diary.
  - Non-Victoria Police FV and PS IVO applications – will be allocated by a Court Registrar.
- Unless otherwise ordered by the court and subject to matters require prioritisation (see dot point directly below), second and subsequent listings will be adjourned and parties will be advised of the new date by way of hearing notice. (In family violence related proceedings, if a party has safety concerns about receiving advice from the court about the hearing date, the party should make immediate contact with the court to identify a safe process for communication about future hearing dates). Parties should expect to receive such hearing notice within 6 weeks of the current listing date. Where such notice is not received Parties may call the relevant court to obtain a new hearing date. Parties must attend on the date specified in the Hearing notice unless otherwise advised by the court.
- Where matters require prioritisation applications for abridgement of the new hearing date may be made in writing and the application will be considered on the papers and accommodated where possible.
- Applications for an extension of FV and PSIO IVOs, where an ex-parte interim extension order has been made, will be listed not later than 28 days after the date the interim extension order has been made where the respondent has not been served (see section 107 FVPA and section 84 PSIOA).

Matters already adjourned to the nominal date of 15 June 2020 will now be allocated new hearing dates. Parties will be advised of the new date by way of hearing notice. (In family violence related proceedings, if a party has safety concerns about receiving advice from the court about the hearing date, the party should make immediate contact with the court to identify a safe process for communication about future hearing dates). Parties should expect to receive such hearing notice within 6 weeks of the current listing date. Where such notice is not received Parties may call the relevant court to obtain a new hearing date. Parties are not required to attend on 15 June 2020 but must attend on the date specified in the hearing notice unless otherwise advised by the Court.

## CIVIL JURISDICTION

Unless directed otherwise no practitioners or parties are to attend court.

All required documents are to be filed via email or post.

All court documents require in addition to the address for service an email address and telephone and or mobile number.

In addition to the rules concerning personal service, personal service may be affected by registered post. An affidavit of service exhibiting an Australia Post received receipt shall be sufficient proof.

In addition to the rules of ordinary service, ordinary service maybe affected by email.

On 6 August 2020, the Magistrates' Court of Victoria has released an update to assist parties understand the updated arrangements and expectations of the Civil Division of the Magistrates' Court of Victoria. This does not apply to Workcover, Family Law, Victims of Crime Assistance Tribunal Family Violence or Personal Safety Intervention Order proceedings. The update is available to read [here](#).

On 10 August 2020, the Magistrates' Court issued a Civil Division Daily List Advice to Practitioners and Parties which establishes a callover process at the Melbourne Registry to ensure the efficient hearing of remote matters. The advice is available to read [here](#).

Coronavirus information relating to the Magistrates' Court civil proceedings is [here](#).

### **Applications**

Parties are encouraged to resolve matters by consent.

Any unresolved matters may be heard upon application and parties shall file and serve any application in the usual way. All non-urgent applications will be heard on the papers with not more than two A4 pages of submissions and filed and exchanged by 2pm on the day prior to the application return date.

For urgent applications, the application and affidavits in support shall be emailed to the court. A magistrate will consider the urgency and give directions to the party/parties. Only urgent applications are to be marked urgent for the attention of the registrar.

Any decisions shall be delivered in writing, telephone conference or audio-visual link.

All direction hearings and applications will be adjourned to a date to be fixed and directions will be given on the papers if appropriate.

### **Pre-hearing conferences**

All proceedings will be referred to a pre-hearing conference.

All pre-hearing conferences will be conducted by telephone conference with a pre-hearing conference registrar until further notice.

All documents to be relied upon by the parties including medical reports and expert reports shall be exchanged 14 days prior to the pre-hearing conference date.

In addition to any directions by the pre-hearing conference registrar any proceeding not resolved by pre-hearing conference shall be referred to an early neutral evaluation prior to any contest date being fixed.

Seven days prior to the pre-hearing conference parties are to exchange; any offers of compromise, Calderbank offers, notices to admit, costs disclosure statements disclosing what each party has incurred to the date of the:

- a) pre-hearing conference
- b) the anticipated costs incurred to the date of the hearing, and
- c) the daily costs of the hearing; including solicitors fees, counsel fees and witness expenses and other disbursements incurred on a normal costs basis (party / party basis) on the applicable scale for hearing or arbitration.

### **Early neutral evaluations (ENE)**

Parties by consent may request the matter be listed for ENE at any stage in the proceedings.

Seven days prior to the ENE parties are to exchange any further; offers of compromise, Calderbank offers, notices to admit, and an updated costs disclosure statements disclosing what each party has incurred to the date of the:

- a) ENE
- b) the anticipated costs incurred to the date of the hearing, and
- c) the daily costs of the hearing; including solicitors fees, counsel fees and witness expenses and other disbursements

and filed by each party with the court by email or mailed accordingly.

Seven days prior to the ENE experts are required confer and file with the court a statement of agreed facts and disputed facts signed by both experts.

The ENE shall be conducted by telephone conference or audio-visual link as directed by the Court.

Should the proceeding not resolve at the ENE the Court will give further directions for the conduct of the proceedings.

All ENEs shall be conducted before a magistrate who will not hear the contested hearing.

#### **Contested hearings**

All contested hearings will be adjourned to a date to be fixed and directions will be given as to the conduct of the hearing. All contested matters adjourned will be listed for an ENE before any matter is relisted for contested hearing.

#### **Post judgment procedures**

All post judgement applications such as attachment of orders, garnishee applications, instalment order applications, summons for oral examinations will be conducted by a court registrar by phone conference or as the Court directs.

#### **WorkCover proceedings**

All consent orders, court documents and pleadings (apart from complaints as set out above) should be filed by email to the WorkCover registrar at [mmcworkcoverindustrialcourts@justice.vic.gov.au](mailto:mmcworkcoverindustrialcourts@justice.vic.gov.au).

All contested hearings, directions hearings, mentions and applications already listed will be considered by the Court on the allocated date.

Unless draft consent orders are received by email or otherwise at Melbourne Magistrates' Court by 1pm on the allocated date, the proceedings will be adjourned to a date to be fixed.

If a party in any WorkCover proceeding applies for an ENE, a magistrate will hear the same in accordance with the procedures as set out above.

All WorkCover regional circuits will be suspended, and proceedings dealt with at Melbourne Magistrates' Court as set out above.

Parties may seek consent orders at any time by emailing the same to the WorkCover registrar as set out above.

#### **APPELLATE DIVISION**

On 14 April 2020, the Court issued a *Special Measures Information Note* for the operation of the Family Court's Appellate Division, which sets out arrangements for:

- registry operations
- electronic filing



- signatures on documents and affidavits
- arrangements for court listings
- contact details for each Regional Appeal Registry, and
- open justice considerations.

In all appeal matters in Melbourne, contact the Appeal Registry by email at [southernappeals@familycourt.gov.au](mailto:southernappeals@familycourt.gov.au).

The *Special Measures Information Note* is available [here](#).

## Children's Court of Victoria

COVID-19 Practice Direction can be found [here](#).

The Children's Court remains open and operational at all venues.

Restricted entry to the Court – see [here](#). The following can enter the Court if they are a person who:

- is a party to a proceeding
- requires immediate face to face services of the registry
- is a representative of the media, or
- is admitted by direction of a registrar or judicial officer of the Court.

The following persons are not permitted entry to the Court:

- people who have travelled overseas in the last 14 days
- people who have been in contact with a person who has a confirmed case of the Coronavirus COVID-19, and
- people who have flu-like symptoms: fever, coughing, sore throat, fatigue, and shortness of breath.

Generally, court users will only be permitted in the courtroom when their matter is called.

Wherever possible, court users are not to appear in person but rather by audio visual link or by telephone. The Court will be using Microsoft Teams, and WebEx platforms – with a gradual rollout.

The Children's Court will continue as follows:

- Conciliation Conferences are to be conducted by phone.
- Contests by evidence are on hold for now.
- Ensure that the final version of consent orders that are sent to the Court reflects agreements made, and the correct procedural orders have been indicated.
- In criminal cases, the Clinic is continuing to conduct assessments remotely – only neuropsychological assessments are proving difficult in this way. Youth Justice is continuing to monitor children on supervised bail, deferrals, YAO's etc, albeit remotely in most cases.
- Email documents to the Court to [ftc@courts.vic.gov.au](mailto:ftc@courts.vic.gov.au).

On Wednesday 22 July 2020, the Supreme Court of Victoria made an announcement stating that anyone in Victoria's court or tribunal buildings in metropolitan Melbourne and Mitchell Shire must wear a face covering unless an exemption applies. The Court's announcement and an explanation of the exemptions is available to read [here](#).

## FAMILY DIVISION

Families are not required to attend Court if lawyers hold up-to-date instructions.



Children are not to be brought to Court, unless no other arrangements are available. DHHS is to facilitate a child speaking with their lawyer to obtain instructions by telephone or other electronic means.

Conciliation conferences will be conducted with lawyers only in attendance and family members (including children) participating by telephone. Parties with proposed minutes of consent orders should ensure that the final version sent to the Court reflects agreements made, and the correct procedural orders have been indicated.

Clinical assessments made prior to 23 March will be reviewed. Thereafter any clinical assessments will be suspended unless otherwise ordered by the Court.

Family Drug Treatment Court will suspend face to face meetings and will provide support via electronic/telephone communication. Monitoring hearings will be conducted via telephone.

Family Violence Intervention Orders – any pre-court meetings are suspended, and parties are to liaise by electronic or other means prior to hearings.

Consent / Unopposed proposed orders – to avoid unnecessary attendance at Court, in cases in which parties consent or do not oppose proposed orders being made, parties are to complete and file this [electronic form](#) which will be filed by DHHS Child Protection Litigation Office no later than one business day before the scheduled hearing date. The Court will notify the parties if attendance is required.

## CRIMINAL DIVISION

Koori Court – all Children’s Koori Court hearings have been suspended.

Staggered listings will be introduced to assist in reducing the number of people in waiting areas.

Charges on Summons are to be listed or adjourned for 12 weeks, unless otherwise ordered by Court.

On bail – to be adjourned (with bail extended/varied) to a date to be determined by the presiding judicial officer.

Consent / Unopposed proposed orders – to avoid unnecessary attendance at Court, in cases in which the prosecution and the accused consent / do not oppose an adjournment and / or extension / variation of bail, the prosecutor and legal representative of the child accused are to complete and file this [electronic form](#) which will be filed by the prosecution no later than one business day before the scheduled hearing date. The Court will notify the parties if attendance is required.

CAYPINS – all matters to be adjourned for 16 weeks.

The Clinic is continuing to conduct assessments remotely.

Any documents to be provided to the Court by email to [ftcr@courts.vic.gov.au](mailto:ftcr@courts.vic.gov.au)

Coronavirus information for the Children’s Court can be found [here](#).

## Coroners Court of Victoria

No hearing that requires the physical attendance of any person at the Coroners Court will proceed. Inquest Findings, Summary Inquests, Direction Hearings and Mention Hearings will be facilitated through technology.

Inquests are adjourned to a date to be fixed but not before 31 May 2020.

Investigations are ongoing.

Coronavirus information for Coroners Court can be found [here](#).

On Wednesday 22 July 2020, the Supreme Court of Victoria made an announcement stating that anyone in Victoria's court or tribunal buildings in metropolitan Melbourne and Mitchell Shire must wear a face covering unless an exemption applies. The Court's announcement and an explanation of the exemptions is available to read [here](#).

## VCAT

From 18 May 2020, VCAT will be progressing currently listed matters using telephone or video conferencing when they can reasonably proceed. If a matter is currently listed to be heard on or after 18 May 2020, VCAT will contact parties to confirm whether their matter will progress on the listed date and using what technology. The technology used will depend on the requirements of matters such as their length, complexity and the number of parties.

Matters that can be determined 'on the papers' will continue to be determined in that way.

VCAT will advise when face-to-face hearings will resume. All listed matters which can only proceed face-to-face either have or will be adjourned until a future date to be fixed.

Mediations conducted by VCAT Panel Mediators will now resume for hearings listed after 18 May 2020.

Visit the [website](#) for more information.

On Wednesday 22 July 2020, the Supreme Court of Victoria made an announcement stating that anyone in Victoria's court or tribunal buildings in metropolitan Melbourne and Mitchell Shire must wear a face covering unless an exemption applies. The Court's announcement and an explanation of the exemptions is available to read [here](#).

### **If the case is being heard by phone, what is the process?**

VCAT will contact parties to let them know the scheduled time for the hearing. At the time of the hearing, VCAT will contact each party by phone on the number that the party has provided. If parties require further information or need to advise VCAT of an alternative number or party name, call 1300 01 8228 or email:

- Residential Tenancy cases: [renting@vcat.vic.gov.au](mailto:renting@vcat.vic.gov.au)
- Guardianship cases: [humanrights@vcat.vic.gov.au](mailto:humanrights@vcat.vic.gov.au)

### COVID-19 digital response program go-live

VCAT's Planning and Environment Division (PED) is delivering on its commitment to government by getting VCAT moving remotely during the COVID-19 pandemic. From 27 July, VCAT is offering the Victorian community:

- the ability to file new applications in PED via smart forms to be managed as digital case files, and
- some hearings will be conducted on an alternative bespoke virtual hearing platform, Immediation, specifically procured as part of the program.

More information about the solutions and this program of work is available on [VCAT's new website](#).

On 6 August 2020, VCAT again confirmed that hearings were being conducted remotely via teleconference or online platform. Matters which are currently listed over the next six weeks will continue to be heard. VCAT will notify parties if there is any change to their matter. Unless you are notified, you should assume that your matter is proceeding according to any notices or information that you have previously been given – there is no need to contact VCAT to check on your matter. For further information regarding our operations during the pandemic, visit VCAT's [website](#).

On 16 October, Five new online forms have also been added:

- [Practice Note 9 Form A - Notice of an Amendment of an Application](#)
- [Practice Note 9 Form B - Statement of Service](#)



- [Statement of Grounds by a Respondent \(Enforcement\)](#)
- [Statement of Grounds by an Affected Person \(Enforcement\)](#), and
- [Notice of Decision to Grant a Permit](#).

These forms can be found [here](#).

Responsible authorities are encouraged to use VCAT's new Notice of Decision Online Form. An automatic email will now be sent to the Responsible Authority when an objector application (section 82) has been filed.

A list of naming conventions for use when corresponding with VCAT and parties will automatically map certain correspondence to VCAT's case files. The non-exhaustive list is available [here](#).

Coronavirus information for VCAT can be found [here](#).

## Medical Panels

All current active referrals where face-to-face examinations have been completed will proceed to opinion and reasons will be released as usual. All new referrals can still be submitted via email to [info@medicalpanels.vic.gov.au](mailto:info@medicalpanels.vic.gov.au) or [referrals@medicalpanels.vic.gov.au](mailto:referrals@medicalpanels.vic.gov.au).

Assessments before a Medical Panel are typically undertaken in-person, however in response to the health risks posed by COVID-19 and to protect everyone involved in this process from possible exposure, Medical Panels is temporarily changing its usual operations and will deliver its functions through an online format. For more information, visit the [website](#).

Following the success of its videoconferencing trial period, Medical Panels is now planning to commence multiple online assessments in the next week. For those discrete cases where in-person examinations remain necessary for Medical Panels to form an opinion, modified appointments will commence from 4 May 2020. These assessments will be conducted in line with advice from the Chief Health Officer. As such, appropriate safeguards will be in place, including social distancing, PPE, and strict adherence to environmental and hand hygiene. Individuals who have already been referred to Medical Panels will be contacted shortly to discuss the timing and mode of delivery of their appointments. Contact Medical Panels on 1800 061 715 for any questions in relation to these ongoing arrangements.

Associate Professor Peter Gibbons, Convenor of Medical Panels, advised on Friday 17 July 2020 that Medical Panels are continuing to undertake face-to-face hearings at La Trobe Street and where appropriate, hearings via video-conference. At all times, Medical Panels is committed to minimising community transmission through use of appropriate environmental safeguards and PPE in accordance with DHHS guidelines and will continue to operate in this manner unless circumstances change.

On 12 August 2020, Medical Panels issued the following statement:

- Medical Panels is doing everything to ensure hearings continue as much as we can, but there will be delays due to the current COVID environment.
- As we know, the Victorian Government has introduced new Stage 4 restrictions to reduce the incidence of community transmission of COVID-19. However, under these restrictions, Medical Panels will continue to operate and will prioritise urgent matters that have immediate impact on people. This includes termination of weekly payments referrals, County Court and Magistrates Court referrals, liability denial referrals and rejection of surgery referrals.
- Medical Panels will not cancel any appointments that are currently booked during the Stage 4 restrictions, however, we will proceed to book new hybrid appointments where on-site physical assessment can be scheduled after the Stage 4 restrictions are lifted.
- There are ways we are supporting the finalisation of matters whilst complying with our shared obligations:



- Most psychiatry examinations will continue to be held using Zoom. We help workers and claimants to install and test Zoom on personal devices prior to Zoom hearing.
  - For Panels requiring a physical examination, appointments will continue to be conducted on site at 485 La Trobe Street, Melbourne for the history taking/discussion and the physical examination (approximately 75 minutes). In addition, a hybrid model is currently being introduced where Medical Panel members will meet with workers or claimants via Zoom and at a later date, a physical examination will be held onsite at 485 La Trobe Street, Melbourne. If the referral is deemed suitable for this approach we will be in touch with workers and claimants to discuss this as an option.
  - If required to attend our building at 485 La Trobe Street, Melbourne, we offer to workers and claimants free onsite parking for the time of the appointment in our building to minimise risk of using public transport.
  - We provide the Letter of Appointment to all workers, which can be shown to any Authorised Officers if travel is questioned.
- We are taking all necessary precautions to ensure the health and safety of all visitors, staff and Panel Members at 485 La Trobe Street, including pre-screening checks, social distancing and use of personal protective equipment. However, we understand that coming into Melbourne is not suitable for all people. Some people will choose to put their case into temporary “suspension” until after the COVID health emergency and we can do that too, once we receive such a request from workers/claimants or their representative.
- We take our responsibilities to the Victorian community very seriously and we welcome your feedback about the ways our Medical Panels’ hearings are conducted.

Under Stage 4 Restrictions, as of 14 August 2020, Medical Panels (Panels) will continue to operate and will prioritise urgent matters that have immediate impact on people. This includes termination of weekly payments referrals, County Court of Victoria and Magistrates’ Court of Victoria referrals, liability denial referrals and rejection of surgery referrals.

Panels will not cancel any appointments that are currently booked during the Stage 4 Restrictions, however, Panels will proceed to book new hybrid appointments where on-site physical assessment can be scheduled after the Stage 4 Restrictions are lifted.

There are ways that Panels are supporting the finalisation of matters whilst complying with the Panels’ and parties’ shared obligations:

- Most psychiatry examinations will continue to be held using zoom. Panels help workers and claimants to install and test Zoom on personal devices prior to a Zoom hearing.
- For Panels requiring a physical examination, appointments will continue to be conducted on-site at 485 La Trobe Street, Melbourne for the history taking/discussion and the physical examination (approximately 75 minutes). In addition, a hybrid model is currently being introduced where Panel members will meet with workers or claimants via zoom and at a later date, a physical examination will be held onsite at 485 La Trobe Street, Melbourne. If the referral is deemed suitable for this approach Medical Panels will be in touch with workers and claimants to discuss this as an option.
- If required to attend the building at 485 La Trobe Street, Melbourne, Panels offer to workers and claimants free onsite parking for the time of the appointment in the building to minimise risk of using public transport.
- Panels provide the Letter of Appointment to all workers, which can be shown to any Authorised Officers if travel is questioned.

Panels are taking all necessary precautions to ensure the health and safety of all visitors, staff and Panel Members at 485 La Trobe Street, including pre-screening checks, social distancing and use of personal protective equipment. However, it is understood that coming into Melbourne is not suitable for all people. Some people will choose to put their case into temporary “suspension” until after the COVID health emergency and Panels can do that too, once Panels receive such a request from workers/claimants or their representative.

## COMMONWEALTH COURTS AND TRIBUNALS – COVID-19 UPDATES

### High Court of Australia

The High Court has issued a [response to the COVID-19 outbreak](#) on its website.

The High Court will not sit in Canberra or on circuit in the months of April, May and June 2020. The question of future sittings will be reviewed in June 2020.

The Court will deliver judgments and deal with special leave applications as necessary at individual registries and will hear any urgent matters that may arise using video conferencing technologies.

The High Court has issued two practice directions in relation to the filing of documents and registry operations.

- [High Court of Australia – Practice Direction No 1 of 2020](#) (with effect from 23 March 2020).
- [High Court of Australia – Practice Direction No 2 of 2020](#) (with effect from 23 March 2020).

### Federal Court of Australia

The Federal Court of Australia has modified its practices in order to minimise in person attendance on Court premises, with the Court's priority being to the health and safety of the community, practitioners, judges and staff, and the families of these groups.

The Federal Court of Australia has a dedicated [webpage](#) setting out information and changes to Federal Court practice as a result of COVID-19 (including other announcements and information relating to Registry operations).

The Court has made alternative arrangements for Court listings and events that would ordinarily require in person attendance.

Listings and hearings in the Federal Court of Australia will be conducted on the papers, on the telephone or by other remote access technology, by the use of video conferencing technology such as Microsoft Teams, and in accordance with the special measures practice notes and announcements set out below.

The Federal Court is expanding the number of courtrooms which are suitable for video conferencing technology such as Microsoft Teams, and there are a significant number of Federal courts around the country that will support this form of hearing.

Practitioners who practice in the Federal Court are encouraged to familiarise themselves with Microsoft Teams for future listings and matters.

Many appeals from May that had previously been put to one side will now be considered for June or July, before the August Full Court sittings.

The modification of the Court's practices (including in relation to appeals and full court hearings) has been detailed in a series of special measures practice notes and guidelines. Members and practitioners who practice in the Federal Court are referred to the practice changes in the following announcements (in date order of issue):

- [Special Measures in Response to COVID-19 \(SMIN-1\): Special Measures Information and Practice Note](#) (updated 31 March 2020)

This practice note sets out (among other things) modified procedures in relation to the following matters:

- Registry operations



- signing affidavits
- issuing of subpoenas and the inspection of documents
- newly filed matters
- Court listings and mediations
- communications with the Court
- the use of technology
- self-represented litigants, and
- urgent matters.

Practitioners should note this practice note has updated an earlier version of the Special Measures Information Note dated 23 March 2020).

- [Special Measures in Response to COVID-19: Admiralty and Maritime \(SMIN-2\) - Warrants for the Arrest of Ships](#) (dated 1 April 2020).

This practice note sets out specific arrangements in relation to admiralty matters, in particular the issue of warrants for the arrest of ships during the COVID-19 outbreak in Australia.

The practice note addresses the issue of the availability of marshals, and issues in relation to arrested ships, quarantine arrangements and attendant costs.

- [National Practitioners/Litigants Guide to Virtual Hearings and Microsoft Teams](#) (dated 1 April 2020).

This guide provides practical guidance for the legal profession and litigants-in-person appearing in virtual hearings by Microsoft Teams.

The document sets out:

- the Federal Court's requirements regarding the establishment of a virtual hearing
  - software requirements (Microsoft Teams)
  - joining in the virtual hearing
  - what participants can expect
  - what witnesses can expect
  - the open justice principle
  - document management and assistance, and
  - the document also contains an attachment setting out simple instructions for using Microsoft Teams.
- [Special Measures Information Note: Appeals and Full Court Hearings \(SMIN-3\)](#) (dated 7 April 2020).

This practice note sets out arrangements for the conduct and management of appeals and Full Court hearings during the COVID-19 outbreak in Australia. The practice note will apply to all appeals and Full Court matters listed in May 2020 Full Court and Appellate sitting period, and any subsequent sitting periods.

The practice note is to be read in conjunction with Practice Note AAP2 (Content of Appeal Books and Preparation for Hearing Practice Note) and GPN-AUTH (Lists of Authorities and Citations Practice Note).

The practice note states all matters before the Full Court shall be conducted as electronic appeals and will proceed by video conferencing or by telephone conferencing. There will no 'in person' hearings unless exceptional circumstances apply.

The practice note deals with the following matters:

- remote technology hearings



- electronic appeal books and list of authorities
- outline of submissions and chronology
- additional material
- confidential material
- conduct of hearings, and
- enquiries and contact information.

On 15 April 2020, The Hon. James Allsop, Chief Justice of the Federal Court of Australia, provided an update on the Court's response to COVID-19. His Honour reiterated the importance of observing the regular Court's protocols in a virtual environment, including etiquette, robing, and appropriate dress for counsel, parties and witnesses, as well as other formalities. For more information regarding the conduct of remote hearings, see [here](#).

- [Special Measures Information Note – Court Attendance \(SMIN-4\)](#)

In a letter dated 19 June 2020, the Honourable James Allsop, Chief Justice of the Federal Court of Australia, advised that week beginning 22 June 2020, the Court will begin hearing a limited number of matters in-person in Brisbane, Melbourne and Sydney. The letter is available [here](#). In the letter, His Honour stated that several precautions will be introduced for in-person hearings, including social distancing measures and limits on the number of people allowed in Court. Special Measures Information Note – Court Attendance (SMIN-4) sets out these arrangements, which is available [here](#).

- [Federal Court of Australia issued Coronavirus \(COVID-19\) – Update 26](#) (dated 10 July 2020)

The Honourable Chief Justice James Allsop reiterated that in-person hearings in Melbourne have been suspended. His Honour added that hearings in other registries will not be permitted to allow litigants, witnesses or legal representatives from Victoria to appear in-person.

## Adjournments

On 20 April 2020, The Hon. James Allsop, Chief Justice of the Federal Court of Australia, provided an update on the question of adjournments. His Honour stated that while most matters are continuing to be listed and heard through Microsoft Teams, cases that are longer and more complex require further consideration as to whether they should proceed.

Two helpful cases in this regard are:

- *Capic v Ford Motor Company of Australia Ltd (Adjournment) [2020] FCA 486*. The Judicial College has published a useful summary of this case [here](#).
- *JKC Australia LNG Pty Ltd v CH2M Hill Companies Ltd [2020] WASCA 28*.

Difficulties have also arisen with unrepresented litigants, especially those requiring interpreters, as many do not have access to the necessary linguistic support or technology. The Court is working with members of the Victorian Bar to facilitate pro bono referrals and with interpreters to ensure litigants can continue with their cases remotely. Less urgent matters where the litigant is not in detention were previously 'parked'. However, His Honour stated that from this week such matters, particularly single judge appeals, will now be allocated for hearing.

On 4 May 2020, The Hon. James Allsop, Chief Justice of the Federal Court of Australia, issued the following advice:

- In late March 2020, the Court became aware that the names of some litigants, who had commenced protection visa proceedings in the Federal Court and the Federal Circuit Court, could be accessed on the Commonwealth Courts Portal through Federal Law Search in contravention of section 91X of the *Migration Act 1958* (Cth). John McMillan AO has been appointed to conduct an independent investigation into the issues surrounding this potential non-compliance. The announcement is available [here](#). A list of possibly affected individuals is being finalised and they will be notified shortly. As a protection measure, the Federal Law Search portal in respect of Bankruptcy, Admiralty and Native Title



had been disabled temporarily. It is hoped testing of the reinstated portal (which is yet to go live) will occur in the coming weeks.

- The Court is still triaging all incoming filings. Matters removed from the May Full Court are now scheduled for June, July and August. It is anticipated that the Court will have a 'normal' Full Court List in August, save for those matters that cannot be heard remotely. Chief Justice Allsop has also asked that migration matters where parties are not in detention begin to be allocated into judges' dockets. As a result of these efforts, the Court is close to normal operation, except for cases where litigants do not have the appropriate technology – likely for migration cases where the person is not in detention – or ability to conduct remote hearings.
- Once restrictions begin to relax, the Court will consider conducting hearings wholly or partly by person in Court.
- Chief Justice Allsop noted that the COVID-19 era has revealed that most appeals can be conducted remotely with representatives appearing from different registries using remote technology. This means that there is potential for the national profession to flourish in national law areas, such as Commonwealth Public Law. His Honour reiterated his gratitude for the legal profession's willingness to assist in this arena, particularly in the area of pro bono work.

## Federal Circuit Court of Australia

The Federal Circuit Court has modified its practices in order to minimise in-person attendance on Court premises, with the Court's priority being to the health and safety of the community, practitioners, judges and staff, and the families of these groups.

The Federal Circuit Court of Australia has a dedicated [webpage](#) setting out information and changes to Federal Circuit Court practice as a result of COVID-19 (including other announcements and information relating to Registry operations).

The central changes to practice in the Federal Circuit Court of Australia are set out below. There are additional announcements and notices to the profession issued on the above website.

The Federal Circuit Court of Australia will be moving to a Digital Court File (DCF) system by 14 April 2020.

The Federal Court announced on 18 March 2020 that hearings, including Duty Lists, will as far as possible be conducted by telephone conferencing and video conferencing, and that urgent matters will be dealt with by the Court in accordance with the Court's '[face to face in-court protocol](#)'.

Those who practice in the Federal Circuit Court are specifically referred to practice changes in the following announcements and practice notes (in chronological order):

- [Notice to the Profession – COVID-19 Measures and listing arrangements](#) (dated 18 March 2020)

This notice to the profession sets out measures and listing arrangements implemented by the Courts in relation to first instance family law proceedings, and appellate family law proceedings. The notice to the profession also sets out the Court's 'face to face in-court protocol'. The 'face to face in-court protocol' makes provision for staggered hearings, court room procedure (which includes an eight-person limit in Courtrooms, excluding the judge and associate), cleaning, security and court attendances displaying symptoms.

- [Registrar Face to Face in Court protocol](#) (dated 19 March 2020)

This practice note sets applies the 'face to face in court protocol' referred to above to matters before Registrars of the Court.

- [Joint Practice Direction 2: JPD 2 of 2020 – Special Measures in response to COVID-19](#) (dated 31 March 2020)



This practice note sets out (among other things):

- practice changes to the filing of documents
- subpoenas and the inspection of documents
- annexures to affidavits
- signatures on documents and affidavits, and
- deferral of fee payments.

Practitioners should note this practice note jointly applies to proceedings in the Family Court of Australia.

- [COVID-19: Important information for migration applicants](#) (dated 6 April 2020)

This announcement sets out changes of practice in migration applications. This guide contains information in relation to (among other things):

- directions hearings (matters listed before 30 June 2020, and after 1 July 2020)
- applicant's contact details
- recording of tribunal hearings
- hearings (matters listed before 30 June 2020, and after 1 July 2020), and
- costs.

- [Update to the Profession \(dated 9 April\)](#)

This update reiterates previous updates and also sets out:

- Procedures for Duty Lists and considerations that must be taken into account for these hearings.
- Updates on directions hearings and trials that are either urgent, vacated, or non-urgent face-to-face hearings of more than 1.5 hours in length.
- The orders practitioners may seek for trials to assist them to conduct electronic hearings.
- The recommencement of the Summer Campaign.
- Interviews and assessments by Child Dispute Services.
- Open court access.
- An update on mediation and arbitration practices.
- [Information on COVID-19 restrictions and shared parenting orders.](#)

- [Update to the Profession – COVID-19 Registrar and Child Dispute Services Listing Measures and Arrangements \(dated 24 June\)](#)

This update sets out virtual appearance procedures for:

- Divorce lists
- FCoA Registrar Directions Lists
- Discrete Property Lists, PPP500 Lists and Contravention Lists
- Conferences and ADR events
- FCoA Senior Registrar Lists
- Child Dispute Services - CDS In-person Interview Protocol is available [here](#)

The Family Court of Australia and the Federal Circuit Court are extending the face-to-face protocols currently in place to allow urgent trials and urgent hearings of applications that cannot be conducted by Microsoft Teams to be heard in face-to-face hearings commencing 15 June 2020. The announcement by His Honour Chief Justice Alstergren is [here](#).

### Creation of COVID-19 List

In response to a surge in urgent pandemic-related parenting disputes, the Courts are establishing a "COVID-19 List" dedicated to these types of cases from 29 April 2020. These cases, especially those involving issues of risk and family

violence, will be triaged by a dedicated Registrar. Each case will be assessed on its needs and allocated to be heard by a judge within 72 hours of being assessed.

The following are examples of applications that may be suitable for filing in the COVID-19 List:

- Family violence: There has been an increase in risk due to family violence resulting from the restrictions imposed on families during the COVID-19 pandemic.
- Supervised contact: The current parenting arrangements involve supervised contact, and the contact centre is closed or the supervisor is unable to perform their role, and the parties cannot agree on an alternative arrangement.
- Border restrictions: The parties live in different States or Territories and the child cannot travel between the parties' residences due to border restrictions.
- Medical: The parties and/or child have tested positive for COVID-19 and cannot fulfil the parenting obligations due to sickness or concerns of infection.
- On 11 August 2020, new arrangements with regards to accessing subpoenaed material during the Stage 4 Restrictions were published. In order to reduce the amount of staff, profession and litigants physically attending the Melbourne and Dandenong registry buildings, the Courts have established a new structure to permit parties and practitioners to inspect and copy subpoenaed material where they have a trial in the coming six to eight weeks and the information is of an urgent or priority nature.

Where material is not 'inspect only' and 'photocopy access' is provided, it will be emailed to the party or practitioner directly.

Where material is for 'inspection only', the following procedure will apply:

1. Where all parties are represented:
  - a. The request will be referred to a Judge or Registrar who will confirm release with an undertaking that the material will be destroyed once inspected.
  - b. Documents will then be emailed to the requesting practitioner with a limited protection which will disable the ability to print, save or forward the material.
  - c. The practitioner will then confirm with the Court that the material has been destroyed.
2. Where at least one party is unrepresented:
  - a. The request will be referred to the chambers of the presiding Judge for consideration.
  - b. The Judge will consider whether it is essential that the matter must continue or if it can be adjourned for a period until the current restrictions are eased.
  - c. If it is essential for the matter to continue, a Registry officer will be in contact with the party to discuss arrangements for inspection at the Registry building.

It is critically important to ensure procedural fairness that practitioners refrain from taking photos or otherwise disseminating 'inspect only' material.

Updated practice directions are available [here](#) and further information can be found on the Family Court website [here](#).

On 25 August 2020, the Court issued a new structure relating to how parties and practitioners may inspect and copy subpoenaed material where they have a trial at either the Melbourne and Dandenong Registries, which are to be followed until further notice:

- Special Measures Information Note 2 for the Federal Circuit Court of Australia is available to read [here](#).

On 28 August, the Family Court of Australia and Federal Circuit Court of Australia issued a joint media release welcoming the introduction last week of the Family Law Amendment (Risk Screening Protections) Bill 2020, which is an important framework to facilitate the Courts' new family violence and risk screening initiative, the Lighthouse Project. Further details about the Lighthouse Project are available [here](#). Further details about the Bill are available from Parliament House's website [here](#).

## Family Court of Australia

The Family Court has modified its practices in order to minimise in person attendance on Court premises, with the Court's priority being to the health and safety of the community, practitioners, judges and staff, and the families of these groups.

The Family Court of Australia has a dedicated [webpage](#) setting out information and changes to Family Court practice as a result of COVID-19 (including other announcements and information relating to Registry operations).

A number of the practice notes, notices to the profession and announcements apply equally to the Federal Circuit Court of Australia.

The Family Court of Australia will be moving to a Digital Court File (DCF) system by 14 April 2020.

The central changes to practice in the Family Court of Australia are set out below. Additional announcements and notices to the profession issued on the above website.

The Family Court [announced on 18 March 2020](#) that it will ensure urgent and priority matters can be dealt with safely. The Court has announced that hearings including Duty Lists, will as far as possible be conducted by telephone conferencing and video conferencing, and that urgent matters will be dealt with by the Court in accordance with the Court's '[face to face in-court protocol](#)'.

Those who practice in the Family Court are referred to the following specific practice changes in the following announcements and practice notes (in chronological order):

- [Changes to the delivery of Registrar and Child Dispute Services](#) (dated 18 March 2020)
- [Notice to the Profession – COVID-19 Measures and listing arrangements](#) (dated 18 March 2020)

This notice to the profession sets out measures and listing arrangements implemented by the Courts in relation to first instance family law proceedings, and appellate family law proceedings.

The notice to the profession also sets out the Court's 'face to face in-court protocol'.

The 'face to face in-court protocol' makes provision for staggered hearings, court room procedure (which includes an eight-person limit in Courtrooms, excluding the judge and associate), cleaning, security and court attendances displaying symptoms.

- [Joint Practice Direction 2: JPD 2 of 2020 – Special Measures in response to COVID-19](#) (dated 31 March 2020)

This practice note sets out (among other things):

- practice changes to the filing of documents
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Practitioners should note this practice note jointly applies to proceedings in the Federal Circuit Court of Australia.

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- Updates on directions hearings and trials that are either urgent, vacated, or non-urgent face-to-face hearings of more than 1.5 hours in length.
  - The orders practitioners may seek for trials to assist them to conduct an electronic hearing.
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The Chief Justice of the Family Court of Australia, the Hon. William Alstergren, has issued the following information for parents to give guidance about parenting arrangements and orders.

- [COVID-19 – Information for Parents](#) (dated 25 March 2020)

The Family Court has given guidance to parents about how the Court is responding to deal with family law matters before the Court. See also [Information on COVID-19 restrictions and shared parenting orders](#).

- [Media Statement – Parenting Orders and COVID-19](#) (dated 26 March 2020)

The Chief Justice of the Family Court of Australia issued the media release in relation to parenting arrangements and parenting orders.

- [The Family Court’s Approach to Stage 4 Registrations in Melbourne](#) (dated 5 August 2020)
  - Any matter listed for final hearing over the next eight weeks is an urgent or priority matter within the meaning of the Guidance for Business issued on Monday; and
  - Other matters, in particular urgent applications and duty list matters, will be dealt with on a case-by-case basis.



- On 11 August 2020, new arrangements with regards to accessing subpoenaed material during the Stage 4 Restrictions were published. In order to reduce the amount of staff, profession and litigants physically attending the Melbourne and Dandenong registry buildings, the Courts have established a new structure to permit parties and practitioners to inspect and copy subpoenaed material where they have a trial in the coming six to eight weeks and the information is of an urgent or priority nature.

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- Border restrictions: The parties live in different States or Territories and the child cannot travel between the parties’ residences due to border restrictions.
- Medical: The parties and/or child have tested positive for COVID-19 and cannot fulfil the parenting obligations due to sickness or concerns of infection.

Updated practice directions for this list is [here](#) and further information can be found on the Family Court website [here](#).

### ***Project Updates***

#### *Family Court of Australia and the Federal Circuit Court of Australia*

On 8 May 2020, the Honourable Justice William Alstergren, Chief Justice of the Family Court of Australia and the Federal Circuit Court of Australia, issued an update on three projects the Courts’ are currently implementing:

1. Harmonisation of the Courts' separate notices of risk into the Notice of Child Abuse, Family Violence or Risk,
2. The Lighthouse Project, and
3. National COVID-19 Lists.

These three projects demonstrate the Courts' commitment to the protection of vulnerable parties and children in family law proceedings. This involves early identification of risk, information sharing and appropriate triage and case management of family law matters involving allegations of child abuse or family violence. The update is available to view [here](#).

In relation to point one above, the Honourable Justice William Alstergren is interested in feedback relating to [The Notice of Child Abuse, Family Violence or Risk](#) from members. Please provide your feedback to Ms Jordan Di Carlo, Executive Legal & Policy Advisor, via [email](#) by 4:00pm Wednesday 13 May 2020.

On 28 August, the Family Court of Australia and Federal Circuit Court of Australia issued a joint media release welcoming the introduction last week of the Family Law Amendment (Risk Screening Protections) Bill 2020, which is an important framework to facilitate the Courts' new family violence and risk screening initiative, the Lighthouse Project. Further details about the Lighthouse Project are available [here](#). Further details about the Bill are available from Parliament House's website [here](#).

## Administrative Appeals Tribunal

The Administrative Appeals Tribunal (AAT) has a dedicated [webpage](#) setting out information and its response to COVID-19 (including other announcements and information relating to Registry operations).

The AAT is currently closed to visitors and if a hearing or conference has been scheduled, the AAT will contact the parties to make alternative arrangements.

Those who practice in the AAT are referred to this website for current practice information.

The President of the AAT, the Hon. Justice Thomas has also issued a [statement](#) in relation to hearings, conferences and other events at the AAT.

The AAT has also been consolidating its capability to receive all materials relating to a review electronically and this is now applicable in all divisions, as set out within the relevant practice direction [here](#). Documents to be produced under a summons may also now be given to the AAT electronically and the Tribunal is facilitating arrangements for the inspection of documents produced under summons to be undertaken electronically.

On 27 April 2020, the Hon Justice D G Thomas issued [five special measures practice directions](#) that set out how the AAT will operate in response to COVID-19. These are in effect from 29 April 2020 for the following divisions:

- Practice directions for the General, Freedom of Information and Veterans' Appeals Division are available [here](#).
- Practice directions for the Migration & Refugee Division are available [here](#).
- Practice directions for the National Disability Insurance Scheme Division are available [here](#).
- Practice directions for the Small Business Taxation and Taxation & Commercial Division are available [here](#).
- Social Services & Child Support Division are available [here](#).

## Fair Work Commission

The Fair Work Commission (FWC) has a dedicated [webpage](#) setting out information and its response to COVID-19 (including other announcements and information relating to Registry operations). Those who practice in the FWC are referred to this website for current practice information.

The FWC has announced that conciliation and mediation will be conducted by telephone, and hearings and conferences will be held by telephone or videoconference. The FWC has also stated that it may deal with some matters 'on the papers'.

The website contains information in relation to:

- making applications
- urgent applications
- processing and dealing with cases
- proposed changes to the Fair Work Commission Rules 2013 in relation to declarations, and
- awards and agreements.

## OTHER RESOURCES

### Judicial College of Victoria

The Judicial College of Victoria has recently released resources for courts and legal practitioners relating to coronavirus:

- *Judge Alone Trial Applications* provides a summary of new legislation and existing case law on judge-alone criminal trials, available [here](#).
- *Judge Alone Trial Proceedings* discusses relevant legislation and issues concerning adequacy of reasons, directions and warnings, and judicial practice in the conduct of a criminal judge alone trial. As Justice Lucy McCallum explained at a webinar for judicial officers on 13 May, criminal judge alone trials present significant issues regarding formality, media reporting, judgment writing and interactions with counsel. Judges should also recognise the heavy burden of being the judge of both fact and law in a criminal trial, and reach out to colleagues for support. This publication was developed in collaboration with the County Court of Victoria, and the College thanks the Court for its assistance. The resource is available [here](#).
- *Coronavirus and Judicial Wellbeing* provides a selection of resources to help support the wellbeing of the judiciary and broader community, available [here](#).
- *Coronavirus Jurisprudence* tracks the developing impact of coronavirus on the common law. This resource is available [here](#).
- *Coronavirus Emergency Act Summary* provides a concise overview of the temporary emergency measures affecting the justice system that were recently passed by the Victorian Government. This resource is available [here](#).
- *Coronavirus and the Courts* looks at the nationwide operational impacts of the virus to help courts and court users understand the different practices that have been put in place across the jurisdictions. This resource is available [here](#).

The College will continue to add to these resources and ensure that they are updated regularly, so please continue to check the [website](#).

### The Hague Guide to Good Practice on the Use of Video-Link under the Evidence Convention

The Hague conference has now published through the Permanent Bureau a Guide to Good Practice on the Use of Video-Link under the Evidence Convention. The free guide is available [here](#).

### Principles of remote advocacy - The Inns of Court College of Advocacy

The Inns of Court College of Advocacy has released Principles of Remote Advocacy, which outlines ways in which advocates can most efficiently deploy their professional skills in communication and persuasion in remote working environments. This useful resource is available [here](#).

### Communication in the virtual courtroom - The Advocacy Institute

The Australian Advocacy Institute has produced a webinar on Communication in the Virtual Courtroom that may be helpful to members. It can be streamed from the AAI website [here](#).

## TEMPORARY EMERGENCY MEASURES TO MANAGE CORONAVIRUS CRISIS

On 21 June 2020, Victoria's Minister for Health announced that the State of Emergency in Victoria will be extended for another four weeks to continue the measures designed to slow the spread of coronavirus and keep Victorians safe. The State of Emergency will be extended until 11:59pm on 19 July 2020, which allows the Victorian Government to continue to enforce physical distancing and isolation requirements, as well as other directions from the Chief Health Officer. The full announcement is available [here](#).

### **COVID-19 Omnibus (Emergency Measures) Act 2020 (passed 23 April 2020, in effect on 25 April 2020)**

On 23 April 2020, the Victorian Parliament passed the *COVID-19 Omnibus (Emergency Measures) Act 2020*. Royal assent was given on 24 April 2020, and the Act came into effect on 25 April 2020. The Act amends a wide range of Victorian legislation. The purpose of the Act is to temporarily amend certain Victorian Acts, and to temporarily empower the making of regulations, to modify the application of Victorian law to respond to the COVID-19 pandemic.

The Act sets out a range of temporary changes which affect practice and operations in Victorian Courts and Tribunals, and in the Victorian legal system, to enable these important institutions to continue operating in line with social distancing and other requirements advised by the Chief Health Officer. The Act also sets out other important changes to, among other things, tenancy laws, planning, and workplace entitlements.

The summary of the amendments set out in this document is focused on key changes to practice and operations in Victorian Courts and Tribunals. It is beyond the scope of this document to provide a detailed summary of temporary substantive changes to, for example, tenancy laws, planning and workplace entitlements.

### **Power to make regulations modifying Justice Acts and laws**

The Act permits the Governor in Council, on the recommendation of the **Attorney-General**, to make **regulations** that disapply, or modify, the application of, among other things, certain procedures and processes which affect the system of administration of justice in Victoria. The explanatory memorandum explains that by enabling urgent changes to be made to the justice system, it will allow the justice system to operate as effectively and safely as possible during the COVID-19 pandemic.

It is important for members to understand that this legislation permits the Attorney-General, by regulation, to modify changes to Court and Tribunal procedure, the use of recorded evidence, timeframes that apply to proceedings, and the rules that apply to a range of legal documents. Specifically, the legislation permits regulations to be made in relation to: arrangements for or with respect to any proceeding in a Court or Tribunal (including a pre-trial proceeding); the conduct of a proceeding in a Court or Tribunal; the process by which orders, judgments, rulings, reasons, determinations, decisions or findings of a Court or Tribunal are issued (including their certification and transmission); the witnessing, execution or signing of legal documents (such as affidavits, statutory declarations, deeds, powers of attorney, contracts or agreements, undertakings and wills); the process by which a document is given or issued; the service of documents; the certification of documents; and the lodgement, submission or filing, or inspection of documents.

Furthermore, the legislation permits the Attorney-General, by regulation, to modify changes to practice and procedure in relation to integrity bodies, bail procedure and family violence matters. Specifically, the legislation



provides that regulations can be made in relation to: arrangements for or with respect to any proceeding, inquiry or investigation being conducted or being carried out by an *integrity entity* (e.g., IBAC), the process applying to applications for bail; the method or process by which conditions or bail are monitored or enforced; the process by which a warrant is issued (including their certification and transmission); the method by which a warrant is enforced; the process by which family violence intervention orders (including family violence interim orders), or family violence safety notices are issued.

The Attorney-General, as the responsible minister for making regulations which relate to the administration of justice, must not make any regulation which impacts upon Court processes or procedures unless the relevant head of the Court of Tribunal consents to the recommendation. This will ensure the independence of the Courts and Tribunals is appropriately maintained. The Attorney-General is also required to consult with other relevant Ministers before making regulations under this power. Any regulations need to be consistent with relevant public health advice, and be reasonable for responding to or managing the COVID-19 pandemic.

Members will be updated in relation to any regulations made by the Attorney-General pursuant to these powers conferred by this legislation.

This power has a sunset clause of 6 months after the legislation takes effect.

## Specific temporary changes to Acts in Victoria

A summary of the amendment made to the following acts is set out in alphabetical order of the act.

### ***Amendment to the Bail Act 1977***

Members who practice in criminal law need to know the Bail Act has been amended to permit a person to appear in Court through their legal practitioner, or another person empowered by law to appear for the person. The appearance by the legal practitioner or other person by audio visual link or audio link will constitute an appearance for the purposes of the Bail Act.

### ***Amendment to the Children, Youth and Families Act 2005***

Members who practice in the Children's Court need to know that the Children, Youth And Families Act has been amended to, among other things, permit the flexible location of the Children's Court. It provides that the Court may order that a hearing be held at an appropriate place that is not the proper venue for the hearing if the Court considers a timely hearing cannot be had at the proper venue of the Court due to the disruption of COVID-19, or for other reasons. The Court must have regard to the places closest to the proper venue for the hearing. The Act also makes provision for alternative methods of service of documents under the Act by email communication and by service on lawyers.

The Children, Youth and Family Act has also been amended to change the constitution and meetings of the Youth Parole Board. The Act now also permits, in certain circumstances, oral-presentence reports to be prepared and relied upon (instead of written pre-sentence reports). The Act also confers power on the Secretary to isolate a person detained in a youth facility for the purpose of detecting COVID-19, or preventing or mitigating the transmission of COVID-19.

These provisions have a sunset clause of 6 months from the date of commencement.

### ***Amendment to the Corrections Act 1986***

Members whose practise involves visits to prisons need to know that the Corrections Act has been amended to restrict visits by lawyers and their assistants to prisoners in Victorian prisons due to COVID-19. The Corrections Act now provides that a lawyer or a person authorised by the lawyer to act on their behalf, acting in the course of their practice, may only enter a prison and visit a prisoner if the Governor has permitted the visit to be conducted using

physical barriers that prevent touching, or physical modifications to create distancing between the lawyer, the person authorised by the lawyer to act on their behalf and the prisoner. The Governor is permitted to make such restrictions that are necessary to mitigate the risk of COVID-19 or related health risks.

The Corrections Act also confers power on the Secretary or the Governor to restrict visitor access to prisoners, and permits the mandatory quarantining of prisoners entering the prison for a period of 14 days. However, the Secretary or the Governor may permit communication between a visitor and prisoner by telephone, video conference, parcel or letters, any other means approved by the Governor, and any prescribed means. The Corrections Act now also confers power to restrict the movement and placement of prisoners in Victorian prisons.

These provisions have a sunset clause of 6 months from the date of commencement.

### ***Amendment of the County Court Act 1958***

Members who practice in the County Court need to know that the County Court Act has been amended to enable the County Court to decide issues in proceedings (other than in criminal proceedings) by written submissions and without a hearing in certain circumstances.

Specifically, the Court may decide any issue (other than a prescribed issue) in any proceeding, or determine any proceed (other than a prescribed proceeding), entirely on the basis of written submissions and without the appearance of the parties (1) if the Court is satisfied that it is in the interests of justice to do so; and (2) whether or not the parties consent to the court doing so. Importantly, the amendments to this Act state that the amendments do not apply to a criminal proceeding, or an issue in a criminal proceeding – however equivalent amendments have been made to the Criminal Procedure Act to permit issues to be determined in a criminal proceeding without a hearing.

In deciding whether it is in the interest of justice to decide an issue, or determine a proceeding entirely on the basis of written submissions and without an appearance of parties, the Court must have regard to: the nature of the issue or proceeding; the right to a fair hearing; whether the parties have had the opportunity to obtain legal advice; and, whether the parties consent to the court doing so.

Similar amendments have been made to the Supreme Court Act (see below).

These provisions have a sunset clause of 6 months from the date of commencement.

### ***Amendment of the Court Security Act 1980***

The Court Security Act has been amended to permit authorised officers to take into account the health of persons who work, attend and are in custody in Court during the COVID-19 pandemic, and to follow the directions of an authorised officer under the *Public Health and Wellbeing Act 2008* in relation to the COVID-19 pandemic at court premises, in discharging their powers under the Act.

These provisions have a sunset clause of 6 months from the date of commencement.

### ***Amendment of Crimes (Mental Impairment and Unfitness to be Tried) Act 1997***

Members who practice in criminal law need to know the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 has been temporarily amended to deal with matters arising from the COVID-19 pandemic. Specifically, the Act now provides that the question of a person's fitness to stand trial is to be determined on the balance of probabilities by a judge of a Court at an investigation into the fitness of an accused to stand trial (s 92). This amendment has changed the decision make in a fitness investigation from a jury to a judge alone. The test remains the same.

The procedure on an investigation into fitness to stand trial when the investigation is being heard by a Court (s 93). The Court is required to hear any relevant evidence and submissions put to the Court by the prosecution and the defence. The Court may, if it is in the interests of justice to do so, may call evidence on its own motion, or require



the accused to undergo an examination by a registered medical practitioner or registered psychologist or require the results of any such examination to be put before the Court.

Under this new regime, the Court must determine, by reference to relevant evidence and on the balance of probabilities, whether the accused is or is not fit to stand trial, and if not, whether or not the accused is likely to become fit to stand trial within the next 12 months. If the Court determines that the accused is likely to become fit within the next 12 months, the Court must specify the period by the end of which the accused is likely to be fit to stand trial.

If the Court finds that the accused is fit to stand trial, the trial must be commenced or resumed in accordance with the usual criminal procedures (as modified). If the Court finds that the accused is not fit to stand trial, but is likely to be fit within the next 12 months, the Court must adjourn the matter for a specific period, and may grant the accused bail, or remand the accused in custody in an appropriate place or in prison (if satisfied there is no practical alternative) and make orders it considers appropriate.

If the Court finds that the accused is not fit to stand trial, and is not likely to become fit in the next 12 months, the Court must hold a special hearing under Part 3 as soon as practical, but within 6 months.

The legislation also makes provision for matters relating to appeals of decisions made by the Court as to the fitness of persons.

These provisions have a sunset clause of 6 months from the date of commencement.

#### ***Amendment of the Criminal Procedure Act 2009***

Members who practice in criminal law need to know important temporary changes have been made to the Criminal Procedure Act. The Act has been amended to, among other things, create judge-only trials, set out the process of appeals to decisions made regarding a judge-only trial, regulate the conduct of judge-only hearings (including for issues to be determined on the papers without a hearing), regulate appeals of convictions made in judge only trials, and make changes to personal service. A summary of these changes is set out below.

The Criminal Procedure Act has been amended to enable persons who have been committed for trial or by direct indictment to be tried by a judge alone, without a jury, in the Supreme Court of Victoria and the County Court of Victoria.

The Act provides that at any time except during trial, the Court may order that one or more charges in an indictment be tried by the trial judge alone, without a jury, if: each charge is for an offence under the law of Victoria; each accused consents to the making of the order; the court is satisfied that each accused has obtained legal advice on whether to give that consent, including legal advice on the effect of the order; and the Court considers that it is in the interests of justice to make the order. The Court may make such an order on its own motion, or on an application by the prosecution or an accused. A decision made by a trial judge to make, or not to make, an order for a judge alone trial is not an interlocutory decision for the purposes of the Act.

The Act provides that an appeal of a decision regarding a judge-alone trial lies to the Court of Appeal, if the Court of Appeal gives the party leave to appeal. If the Court of Appeal gives leave to appeal against a decision regarding a judge-alone trial after the trial has commenced, the trial judge must adjourn the trial until the appeal has been heard and determined. The Criminal Procedure Act makes further provision for the commencement and determination of such appeals by the Court of Appeal, and indemnity costs certificates.

The Act clarifies the point in time when a judge-alone trial commences (on arraignment), how addresses are to be given and in what order, when a finding of guilt occurs, and the making and entry of verdicts.

The Act makes provision for appeals in judge alone trials against conviction in certain circumstances. The Act also makes provision for certain questions and evidence in sexual offence proceedings. The Act also empowers a judge



sitting alone in trials of certain offences to return such verdicts or take such actions as a jury could take in a trial for those offences.

Importantly, the Act has been amended to expand the definition of ‘attend’ to include appearances by audio link or audio-visual link, which are temporary provisions in response to the COVID-19 pandemic. Further, a Court can order an accused be brought before the court by audio link from a venue other than was stated on an adjournment order to continue to hold a hearing.

The Criminal Procedure Act also has been amended to permit the Court to decide an issue in a criminal proceeding without requiring an appearance from the parties. This expands the types of matters that Courts can decide “on the papers” during the COVID-19 pandemic. Similar provisions have been enacted in relation to other proceedings by amendment to the County Court Act and the Supreme Court Act.

A court can decide any issue in a criminal issue, other than a prescribed issue, entirely on the basis of written submissions and without requiring the parties to appear. The parties do not need to consent to this approach, but the Court may do so if satisfied it is in the interests of justice to do so. The issues that can be determined under this power are: an issue of law or procedure that arises or is anticipated to arise in the trial, including an issue as to the admissibility of evidence; an issue of fact, or mixed fact and law, that may be determined lawfully by a judge alone without a jury; and application for an order made in relation to a trial under the Act or at common law, including an application to quash a charge in an indictment; and any other issue with respect to the trial. The Court is required to have regard to the accused’s right to be present at their trial, the nature of the issue, whether the accused or the offender has had the opportunity to obtain legal advice, and whether the parties’ consent.

The Criminal Procedure Act has also been amended to modify how personal service is to be effected under the Act. The amendments make provision for personal service to be effected in more flexible ways, for example, by putting a copy of the document down in the person’s presence and telling them the nature of the document. Personal service can also be effected by putting a copy of the document down in the presence of a person who appears to be over the age of 16 years, who is at the last known or usual place of residence of the person to be served, and telling them the nature of the document. The Act also provides further ways for personal service to be effected when a legal representative is accepting service on behalf of an accused person.

These provisions have a sunset clause of 6 months from the date of commencement.

### ***Amendment of the Evidence (Miscellaneous Provisions) Act 1958***

Members who practice in Courts and Tribunals subject to the laws of evidence need to know that the Evidence (Miscellaneous Provisions) Act has been temporarily amended to enable the greater use of audio visual and audio links in court proceedings during the COVID-19 pandemic.

Under the amendments, the Court has the power on its own motion to direct that a person appear by audio visual link, in circumstances where they would otherwise be required to attend Court physically, or to order the use of audio link without the parties’ consent, if the court is satisfied exceptional circumstances exist (which includes where a state of emergency or a state of disaster has been declared). Under the Act, the Court can direct that a person appears to give evidence, or make submissions, to the Court by audio visual link, or audio link. There are certain specific provisions in relation to matters in the Children’s Court and the Magistrates’ Court.

The Act imposes a requirement for the Court to ensure that technical requirements for the appearance by audio link or audio-visual link are met. This includes being satisfied that the ‘court point’ and the ‘remote point’ are equipped with facilities that enable all appropriate persons at the ‘court point’ to hear the accused, all appropriate persons at the ‘remote point’ to hear all appropriate persons at the ‘court point’, the facility is equipped to enable private communication to take place between an accused and a legal practitioner, and the sharing of documents. The Court, in exercising its direction as to whether a proceeding can proceed by audio link (as distinct to an audio-visual link) is required to have regard to specific matters.



Further, the Act empowers the head of the relevant Court to make practice directions, statements or notes relating or the exercising of the court of its discretion in relation to the making of a direction under the Act.

These provisions have a sunset clause of 6 months from the date of commencement.

#### ***Amendment of the Family Violence Protection Act 2008***

Members who practice in family violence matters need to know that the Family Violence Protection Act has been amended to extend the duration of the interim extension order from 28 days to 3 months.

The purpose of this amendment is to ensure that there is no gap in protection before the respondent is located for service and the hearing date is set. This amendment is intended to alleviate the need for family members to return to court frequently if the order has not been served.

These provisions have a sunset clause of 6 months from the date of commencement.

#### ***Amendment of the Fines Reform Act 2014***

Members may be interested to know that the *Fines Reform Act* has been amended for two purposes. Firstly, to ensure that persons or prisoners who would otherwise be eligible to apply for a 'time served order' or an order under s 171C of the Act are not prevented from doing so as a result of COVID-19. Under the amendments to the Act, a Director can make an application for a time served order on behalf of a person. Further, a person may apply for a time served order as soon as is reasonably practicable after it becomes possible for them to make the application, whether or not they are in custody. Secondly, to provide enforcement agencies with the flexibility they need to give fine recipients additional time to pay fines during the COVID-19 crisis.

These provisions have a sunset clause of 6 months from the date of commencement.

#### ***Amendment of the Magistrates' Court Act 1989***

Members who practice in the criminal jurisdiction in the Magistrates' Court, and in bail law, need to know the temporary amendments which have been made to the Magistrates' Court Act. The Act has been amended to grant additional powers to registrars in criminal proceeding to more efficiently manage the listing and re-listing of criminal matters what will be required as a consequence of the COVID-19 pandemic.

The Act has been amended to give power to a registrar to abridge or extend the bail of a person who has been granted bail in relation to a criminal proceeding. This is an expansion of the existing powers or registrars in relation to bail. Further, a registrar has the power to change the date, time or place at which a criminal proceeding is listed before the court. This change may involve the lengthening or shortening of the time before a criminal proceeding returns to court. These powers may be exercised on any day and either in the presence or absence of the accused, and may be exercised on the application of a party or on their own motion. However, the Act clarifies a registrar does not have power to extend or vary the amount or conditions of bail which remain in the domain of bail decision makers.

The Act also provides that the Court must not remand an accused in custody for a period of more than 8 clear days unless certain circumstances exist. The relevant circumstances are set out in the Act. The Act also requires an accused person to brought before the Court where an accused has been granted bail, the proceeding has been adjourned for a period of more than 8 clear days, and the accused has not been released on bail.

These provisions have a sunset clause of 6 months from the date of commencement.

#### ***Amendment of the Oaths and Affirmations Act 2018***

Members who work with affidavits and sworn documents need to know important temporary amendments have been made to the Oaths and Affirmations Act with respect to the swearing of affidavits, and the execution of documents before a witness.

The Act provides that a deponent or an authorised affidavit taker sign or initial an affidavit, jurat or other document may be satisfied by the deponent or authorised affidavit taker doing so by electronic means. The provision allows a deponent or authorised affidavit taker to use an electronic signature on an affidavit, jurat or other document, such as a certificate identifying an exhibit. There is no requirement for the affidavit taker to sign the original copy of the affidavit, and may sign a scanned hard copy or electronic copy of the document.

Further, the amendments provide that a requirement under the Act for a deponent or an authorised affidavit taker do a thing in relation to an affidavit in each other's presence may be satisfied by them doing the thing by way of audio link or audio-visual link. That is, the deponent and affidavit taker do not need to be in each other's presence to complete the requirements of making and taking an affidavit, such as the signing or initialling any alteration to an affidavit, signing each page of the affidavit, signing the affidavit, signing the certificate attached to exhibits, and taking the oath or affirmation.

If an deponent or authorised affidavit taker does something electronically or by audio-visual or audio link, the authorised affidavit take is required to state in the jurat: that the affidavit, jurat or other document was signed or initialled by the deponent by electronic means; that specified things in respect of the affidavit were done by means of audio link or audio-visual link; and/or that the affidavit, jurat or other document is a scanned hard copy or an electronic copy, not an original.

If the documents do not comply with these requirements for affidavits, it will be treated as a 'purported affidavit' under the Act, and the Court may admit a 'purported affidavit in evidence in particular proceedings if the Court considers that doing so would be in the interests of justice. The Court may only admit a 'purported affidavit' if satisfied that it was not reasonably practicable and the purported affidavit states the reasons why compliance was not reasonably practicable. This does not interfere with a Court's inherent power to admit unsworn affidavits.

These provisions have a sunset clause of 6 months from the date of commencement.

### ***Amendment to the Open Courts Act 2013***

Members who appear and practice in open Courts need to know that temporary amendments have been made to the Open Courts Act giving Courts and Tribunals greater ability to put public health measures in place for Court or Tribunal proceedings and hearings, to reduce the risk of transmission of COVID-19 and ensure the ongoing administration of justice.

The amendments to the Act create, and make provision for, the making of 'MAP orders' (modified access and procedure orders). A MAP order is an order which does any of the following things (or a combination of the following things), so that the proceeding or hearing may not be held in open court: orders requiring that the proceeding or hearing be held with or without the appearance of parties, or by audio-visual or audio link; orders permitting a specified person or a person or a specified class to be present for the whole or part of the proceeding or hearing, or prohibiting them from being present at the proceeding or hearing.

These provisions provide scope for the presiding judge or tribunal member to have flexibility to respond to the particular needs and circumstances of individual proceedings (where, for example, a matter has significant public interest, or an individual in a proceeding has specific needs or health risk matters).

A MAP order can be made by a head of jurisdiction or head of a list of court or tribunal, for a specified proceeding or hearing, or specified class of proceeding or hearing in their jurisdiction or in their list, respectively.

When making a MAP order, the head of jurisdiction or head of list must consider the guiding principles set out in the amending legislation, consider any directions of an authorised officer under the Public Health and Wellbeing Act in relation to the COVID-19 pandemic, and be satisfied that the contents of the MAP order are required to maintain



public health during the pandemic. In the case of inconsistency between MAP orders, the terms of a MAP order made by the head of jurisdiction will prevail over a MAP order made by a head of a list in the same jurisdiction, to the extent of any inconsistency.

The Act also provides that if hearings or proceedings are not able to be heard in open court, or judgment delivered in open Court, the Court may arrange or provide an audio or audio visual broadcast of the proceeding, or provide such a broadcast within a reasonable time after the conclusion of the proceeding or hearing, or to arrange and provide a recording to the public or a member of the public on request.

These provisions have a sunset clause of 6 months from the date of commencement.

#### ***Amendment to the Personal Safety Intervention Orders Act 2010***

Members who practice in intervention orders and family violence matters need to know that the Personal Safety Intervention Orders Act has been amended to extend the duration of the interim extension order from 28 days to 3 months.

The purpose of the amendment is to ensure that there is no gap in protection before the respondent is located for service and the hearing date is set. This amendment is intended to alleviate the need for family members to return to court frequently if the order has not been served.

These provisions have a sunset clause of 6 months from the date of commencement.

#### ***Amendment to the Sentencing Act 1991***

Members who practice in criminal law and sentencing need to know that temporary amendments have been made to the Sentencing Act. Under the amendments, the Magistrates' Court can attach an electronic monitoring requirement to a monitored condition of a community corrections order when sentencing a person for an offence, or to vary a community corrections order to this effect.

Further, the Act has been amended to allow pre-sentence reports for young offenders to be given orally, and that oral reports can be provided to the Court (or appellate Court) when certain circumstances are met. The circumstances are set out in the Act. Further, the Act regulates the content, distribution and disputed contents of oral pre-sentence reports.

These provisions have a sunset clause of 6 months from the date of commencement.

#### ***Amendment to the Supreme Court Act 1986***

Members who practice in the Supreme Court need to know that the Supreme Court Act has been amended to enable the Supreme Court to decide issues in proceedings (other than in criminal proceedings) by written submissions and without a hearing in certain circumstances. Specifically, the Court may decide any issue (other than a prescribed issue) in any proceeding, or determine any proceed (other than a prescribed proceeding), entirely on the basis of written submissions and without the appearance of the parties (1) if the Court is satisfied that it is in the interests of justice to do so; and (2) whether or not the parties consent to the court doing so. Importantly, the amendments to this Act state that the amendments do not apply to a criminal proceeding, or an issue in a criminal proceeding – however amendments to the Criminal Procedure Act permit issues to be determined in a criminal proceeding without a hearing.

In deciding whether it is in the interest of justice to decide an issue, or determine a proceeding entirely on the basis of written submissions and without an appearance of parties, the Court must have regard to: the nature of the issue or proceeding; the right to a fair hearing; whether the parties have had the opportunity to obtain legal advice; and, whether the parties consent to the court doing so.

The Act has also been amended to permit Judges of the Court to make Court Rules by way of majority.

These provisions have a sunset clause of 6 months from the date of commencement.

***Amendments to the Victorian Civil and Administrative Tribunal Act 1998***

The VCAT Act has been amended to enable the Rules Committee of VCAT to make rules remotely with a quorum of 4 members without a meeting.

These provisions have a sunset clause of 6 months from the date of commencement. [Ends]

